



World/Nation

Attorney general implores court to uphold mandatory drug tests

WASHINGTON (AP) — The Supreme Court, confronting drug testing in the American workplace for the first time, was urged by Attorney General Dick Thornburgh and his top courtroom lawyer on Wednesday to uphold mandatory tests for many railroad and Customs Service employees.

The importance attached to the pair of cases by the administration was underscored by Thornburgh's participation, marking the first time that an attorney general appeared before the high court since President Reagan took office. He was joined by Solicitor General Charles Fried.

Former Attorney General Edwin Meese, Thornburgh's immediate predecessor, observed the arguments from the spectator seats.

"This is a case about railway safety," said Thornburgh, who presented the administration's position in a dispute over

mandatory blood and urine tests for railroad workers after accidents or rules violations.

He said the case was about the hazards created by the use of drugs and alcohol by people "in charge of trains."

Thornburgh stumbled a few times when the justices asked him about some of the specifics of the testing program.

"I'm not going to palm myself off on this court as an expert," Thornburgh said.

He last argued before the high court in 1977 when he headed the Justice Department's criminal division. The last time an attorney general argued before the justices was in 1980, when Benjamin Civiletti presented the Carter administration's side in a Nazi deportation case.

If Thornburgh encountered some problems Wednesday, his opponent in the case appeared to fare even worse. Sharp questions were repeatedly di-

rected at Lawrence Mann, an attorney for the railway workers who said the drug tests are unconstitutional because they are incapable of proving on-the-job impairment.

"Neither the alcohol nor the drug test can demonstrate impairment," he said. For example, he said, the tests can show residue from a drug that may have been taken 60 days prior to the test.

Justice Antonin Scalia asked if it weren't reasonable for the railroad to want to know if someone responsible for train safety has "cocaine traces" in his system.

Justice Anthony Kennedy asked Mann: "The public has no interest in knowing about chronic drug use as long as the worker is not using drugs on duty?"

Justice Thurgood Marshall scolded Mann for spending too much time attacking the reliability of urine tests as opposed to blood tests.

"You have to win on both tests," he shall said. "Aim at both of them."

Fried, the administration's top courtroom lawyer, defended the Customs Service program in which urine tests are required for anyone applying for a promotion or transfer to a job involving enforcement.

There is an "urgent and symbolic significance" in assuring the public that the agency responsible for preventing drug smuggling has a drug-free workforce, Fried said.

Benefactor for Marcos to post bail

NEW YORK (AP) — Imelda Marcos's quest for a benefactor ended Wednesday when tobacco heiress Doris Duke agreed to put up the \$5 million needed by the former first lady of the Philippines to secure her bail on racketeering charges.

Duke will post more than \$5 million in municipal bonds as bail for Marcos, who is accused along with her husband, former Philippine president Ferdinand Marcos, of looting more than \$100 million from their homeland.

Lawyers said the bonds would actually be worth between \$5.3 million and \$5.4 million depending on market fluctuation, although the exact types of bonds were not revealed.

"It was Miss Duke's idea to help," her lawyer, Donald Robinson, said after a hearing before U.S. District Judge John Keenan in Manhattan.

Marcos, 59, who has been staying in an \$1,800-a-day suite at the Waldorf-Astoria Hotel, did not attend the court session.

Nation's productivity on rise despite second quarter drop

WASHINGTON (AP) — The nation's productivity rose by an annual rate of 1.3 percent from July through September, the government said Wednesday, reversing a second quarter decline when new employment had outpaced increases in goods and services.

But analysts cautioned that the long-term trend of anemic productivity growth offers little hope for lifting Americans' standard of living or increasing U.S. competitiveness overseas.

Output of goods and services by non-farm businesses rose at an annual rate of 2.8 percent in the third quarter, while the number of hours worked increased only 1.5 percent, the Labor Department said.

But the over-the-year productivity improvement has been only 0.8 percent, the

government said. Revised figures showed that productivity dropped 2.4 percent in the second quarter — much worse than the 1.4 percent decline estimated previously.

Larry Chimerine, chairman of the WEFA Group, a Bala Cynwyd, Pa. consulting firm, said, "Despite the strong growth of the economy over the past year, there's still no significant change in a weak trend in productivity that we've seen since 1973."

"Productivity growth averaging 1 percent a year remains this country's major economic problem," he said. "Until we get it on a stronger upward trend, we're not going to see any increase in real wages or in our international competitiveness."

Unit labor costs rose at an annual rate of 4 percent in the second quarter on hourly wage and benefit increases averaging 5.4 percent annually. Last year, businesses were able to restrain their labor cost increases to only 3.1 percent, with a 3.8 percent increase in hourly compensation to workers.

Roger Brinner, an economist for Data Resources Inc. of Lexington, Mass., said Americans can expect to see a pattern in the near future in which productivity gains offset only a small portion of recent increases in wages.

Manufacturers, which account for one-fourth of the nation's economic output, continue to fare much better than businesses generally in both improving their productivity and in keeping a lid on labor costs.

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