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This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. The question presented by this case is whether a forfeited claim that the Government has violated the terms of a plea agreement is subject to the plain-error standard of review set forth in Rule 52 b of the Federal Rules of Criminal Procedure. He negotiated a plea agreement with the Government, which was filed with the District Court on September 3, As part of that deal, Puckett agreed to plead guilty to both counts, waive his trial rights, and cooperate with the Government by being truthful regarding his participation in criminal activities. In exchange, the Government agreed to the following two terms: The government agrees that Puckett has demonstrated acceptance of responsibility and thereby qualifies for a three-level reduction in his offense level. Because of delays due to health problems experienced by Puckett, sentencing did not take place for almost three years. In the interim, Puckett assisted another man in a scheme to defraud the Postal Service, and confessed that assistance under questioning to a probation officer. The probation officer then added his view that under the Guidelines, a reduction would be improper. After hearing these submissions, the District Judge concluded that even assuming he had the discretion to grant the reduction, he would not do so. He agreed, however, to follow the recommendation that the Government made, pursuant to its commitment in the plea agreement, that Puckett be sentenced at the low end of the applicable Guidelines range, which turned out to be months in prison for the armed bank robbery and a mandatory minimum consecutive term of 84 months for the firearm crime. Had the District Court granted the three-level reduction for acceptance of responsibility, the bottom of the Guidelines range would have been months for the robbery; the firearm sentence would not have been affected. He never cited the relevant provision of the plea agreement. On appeal to the United States Court of Appeals for the Fifth Circuit, Puckett did argue, inter alia,that the Government violated the plea agreement at sentencing. The Government conceded that by objecting to the reduction for acceptance of responsibility, it had violated the obligation set forth in paragraph 8 of the agreement, but maintained that Puckett had forfeited this claim by failing to raise it in the District Court. The Court of Appeals agreed, and applied the plain-error standard that Rule 52 b makes applicable to unpreserved claims of error. It held that although error had occurred and was obvious, Puckett had not satisfied the third prong of the plain-error analysis by demonstrating that the error affected his substantial rights, i. The Court of Appeals accordingly affirmed the conviction and sentence. We granted certiorari, U. Concluding that Rule 52 b does apply and in the usual fashion, we now affirm. II If a litigant believes that an error has occurred to his detriment during a federal judicial proceeding, he must object in order to preserve the issue. If he fails to do so in a timely manner, his claim for relief from the error is forfeited. United States, U. If an error is not properly preserved, appellate-court authority to remedy the error by reversing the judgment, for example, or ordering a new trial is strictly circumscribed. This limitation on appellate-court authority serves to induce the timely raising of claims and objections, which gives the district court the opportunity to consider and resolve them. That court is ordinarily in the best position to determine the relevant facts and adjudicate the dispute. In the case of an actual or invited procedural error, the district court can often correct or avoid the mistake so that it cannot possibly affect the ultimate outcome. In federal criminal cases, Rule 51 b tells parties how to preserve claims of error: See United States v. Rule 52 b , however, recognizes a limited exception to that preclusion. The Rule provides, in full: Second, the legal error must be clear or obvious, rather than subject to reasonable dispute. Dominguez Benitez, U. The real question in this case is not whether plain-error review applies when a defendant fails to preserve a claim that the Government defaulted on its plea-agreement obligations, but rather what conceivable reason exists for disregarding its evident application. New York, U. III Puckett puts forward several possible reasons why plain-error review should not apply in the present context. We understand him to be making effectively four distinct arguments: We consider each set in turn. When the Government breaks a promise that was made to a defendant in the course of securing a guilty plea, the knowing and voluntary character of that plea retroactively vanishes, because as it turns out the defendant was not aware of its true

consequences. Since guilty pleas must be knowing and voluntary to be valid, McCarthy v. This elaborate analysis suffers from at least two defects. Although the analogy may not hold in all respects, plea bargains are essentially contracts. When the consideration for a contract failsâ€”that is, when one of the exchanged promises is not keptâ€”we do not say that the voluntary bilateral consent to the contract never existed, so that it is automatically and utterly void; we say that the contract was broken. The party injured by the breach will generally be entitled to some remedy, which might include the right to rescind the contract entirely, see 26 id. When a defendant agrees to a plea bargain, the Government takes on certain obligations. If those obligations are not met, the defendant is entitled to seek a remedy, which might in some cases be rescission of the agreement, allowing him to take back the consideration he has furnished, i. But rescission is not the only possible remedy; in Santobello we allowed for a resentencing at which the Government would fully comply with the agreementâ€”in effect, specific performance of the contract. In any case, it is entirely clear that a breach does not cause the guilty plea, when entered, to have been unknowing or involuntary. It is precisely because the plea was knowing and voluntary and hence valid that the Government is obligated to uphold its side of the bargain. If he had, there would be no error at all and plain-error analysis would add nothing. Those holdings determine whether error occurred, but say nothing about the proper standard of review when the claim of error is not preserved. The question presented by this case assumes error; only the standard of review is in dispute. In that case, the State had promised in a plea deal that it would make no sentencing recommendation, but the prosecutor apparently unaware of that commitment asked the state trial court to impose the maximum penalty of one year. Defense counsel immediately objected. We do not agree. Whether an error can be found harmless is simply a different question from whether it can be subjected to plain-error review. Santobello given that the error in that case was preserved necessarily addressed only the former. B Doctrine and precedent aside, Puckett argues that practical considerations counsel against subjecting plea-breach claims to the rule of plain-error review. Specifically, he contends that no purpose would be served by applying the rule; and that plea breaches will always satisfy its four prongs, making its application superfluous. Accepting, arguendo and dubitante ,that policy concerns can ever authorize a departure from the Federal Rules, both arguments are wrong. Puckett suggests that once the prosecution has broken its agreement, e. The district judge has already heard the request, and under Santobello it does not matter if he was influenced by it. So why demand the futile objection? For another, the breach itself will not always be conceded. Thirdly, some breaches may be curable upon timely objectionâ€”for example, where the prosecution simply forgot its commitment and is willing to adhere to the agreement. And finally, if the breach is established but cannot be cured, the district court can grant an immediate remedy e. Brief for Petitioner Olano, supra, at ; Johnson, U. We have never described it as such, see Johnson, supra, at â€”, and it shares no common features with errors we have held structural. But the rule of contemporaneous objection is equally essential and desirable, and when the two collide we see no need to relieve the defendant of his usual burden of showing prejudice. See Olano, U. The defendant whose plea agreement has been broken by the Government will not always be able to show prejudice, either because he obtained the benefits contemplated by the deal anyway e. But that is simply an ipse dixit recasting the conceded errorâ€”breach of the plea agreementâ€”as the effect on substantial rights. That interest is always at stake in criminal cases. Puckett contends that the fourth prong of plain-error review likewise has no application because every breach of a plea agreement will constitute a miscarriage of justice. That is not so. The fourth prong is meant to be applied on a case-specific and fact-intensive basis. It is true enough that when the Government reneges on a plea deal, the integrity of the system may be called into question, but there may well be countervailing factors in particular cases. Puckett is again a good example: Given that he obviously did not cease his life of crime, receipt of a sentencing reduction for acceptance of responsibility would have been so ludicrous as itself to compromise the public reputation of judicial proceedings. Not all breaches will be clear or obvious. Moreover, the Government will often have a colorable albeit ultimately inadequate excuse for its nonperformance. The judgment of the Court of Appeals is Affirmed. United States, F. But it is hornbook law that misrepresentation requires an intent at the time of contracting not to perform. It is more difficult to explain the other precedent relied upon by Puckettâ€”our suggestion in Mabry v. Its conclusion that the conviction cannot stand is only sometimes true if that is the remedy the court

prescribes for the breach. And even when the conviction is overturned, the reason is not that the guilty plea was unknowing or involuntary. We disavow any aspect of the Mabry dictum that contradicts our holding today. That argument might have convinced us had it been pressed, but the Government conceded the breach, and we analyze the case as it comes to us.

Chapter 2 : Yonkers Bankruptcy Attorneys - LII New York Attorney Directory

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Soon after he was born, his father, David Rabi, emigrated to the United States. The younger Rabi and his mother, Sheindel, joined David there a few months later, and the family moved into a two-room apartment on the Lower East Side of Manhattan. At home the family spoke Yiddish. When Rabi was enrolled in school, Sheindel said his name was Izzy, and a school official, thinking it was short for Isidor, put that down as his name. Henceforth, that became his official name. Later, in response to anti-Semitism , he started writing his name as Isidor Isaac Rabi, and was known professionally as I. To most of his friends and family, including his sister Gertrude, who was born in , he was known simply as "Rabi", which was pronounced "Robby". In , the family moved to Brownsville, Brooklyn , where they ran a grocery store. He read science books borrowed from the public library and built his own radio set. His first scientific paper, on the design of a radio condenser , was published in Modern Electrics when he was in elementary school. For his senior thesis, he investigated the oxidation states of manganese. He was awarded his Bachelor of Science degree in June , but since at the time Jews were largely excluded from employment in the chemical industry and academia, he did not receive any job offers. He worked briefly at the Lederle Laboratories , and then as a bookkeeper. In he met, and began courting, Helen Newmark, a summer-semester student at Hunter College. In order to be near her when she returned home, Rabi continued his studies at Columbia University , where his supervisor was Albert Wills. Wills, whose specialty was magnetism, suggested that Rabi write his doctoral thesis on the magnetic susceptibility of sodium vapor. The crystals then had to be prepared by skillfully cutting them into sections with facets that had an orientation different from the internal structure of the crystal, and the response to a magnetic field had to be painstakingly measured. He lowered a crystal on a glass fiber attached to a torsion balance into a solution whose magnetic susceptibility could be varied between two magnetic poles. When it matched that of the crystal, the magnet could be turned on and off without disturbing the crystal. The new method not only required much less work, it also produced a more accurate result. He married Helen the next day. The paper attracted little fanfare in academic circles, although it was read by Kariamanickam Srinivasa Krishnan , who used the method in his own investigations of crystals. Rabi concluded that he needed to promote his work as well as publish it. He was astounded by the Sternâ€"Gerlach experiment , which convinced him of the validity of quantum mechanics. The problem was that none of them could solve the resulting equation, a second-order partial differential equation. Rabi found the answer in a book by the 19th-century mathematician Carl Gustav Jacob Jacobi. The equation had the form of a hypergeometric equation to which Jacobi had found a solution. Kronig and Rabi wrote up their result and sent it to Physical Review, which published it in When this was refused, he resigned. Rabi therefore decided to seek a position with Arnold Sommerfeld at the University of Munich instead. Sommerfeld accepted Rabi as a postdoctoral student. German physicists Rudolf Peierls and Hans Bethe were also working with Sommerfeld at the time, but the three Americans became especially close. Afterwards, Rabi moved to Copenhagen , where he volunteered to work for Niels Bohr. Bohr was on vacation, but Rabi went straight to work on calculating the magnetic susceptibility of molecular hydrogen. Rabi soon made friends with them, and became interested in their molecular beam experiments, [15] for which Stern would receive the Nobel Prize in Physics in Rabi came up with the idea of using a uniform field instead, with the molecular beam at a glancing angle, so the atoms would be deflected like light through a prism. This would be easier to use, and produce more accurate results. Encouraged by Stern, and greatly assisted by Taylor, Rabi managed to get his idea to work. They left Hamburg for Leipzig , where he hoped to work with Heisenberg. It would be the start of a long friendship. Pegram , was looking for a theoretical physicist to teach statistical mechanics and an advanced course in the new subject of quantum mechanics, and Heisenberg had recommended Rabi. Helen was now pregnant, so Rabi needed a regular job, and this job was in New York. Lawrence left and Enrico Fermi center As a teacher, Rabi was underwhelming. Leon Lederman recalled that after a lecture, students would head to the library to

try to work out what Rabi had been talking about. He inspired many of his students to pursue careers in physics, and some became famous. In collaboration with Gregory Breit , he developed the Breit-Rabi equation , and predicted that the Sternâ€"Gerlach experiment could be modified to confirm the properties of the atomic nucleus. With the help of Victor W. Cohen, [29] Rabi built a molecular beam apparatus at Columbia. Their idea was to employ a weak magnetic field instead of a strong one, with which they hoped to detect the nuclear spin of sodium. Its deuterium isotope had only recently been discovered at Columbia in by Urey, who received the Nobel Prize in Chemistry for this work. Urey was able to supply them with both heavy water and gaseous deuterium for their experiments. He never had a woman as a doctoral or postdoctoral student, and generally opposed women as candidates for faculty positions. Gorter , the team attempted to use an oscillating field. In , Rabi, Kusch, Millman and Zacharias used it to measure the magnetic moment of several lithium compounds with molecular beams, including lithium chloride , lithium fluoride and dilithium. The resulting value was not zero, and had a sign opposite to that of the proton. Based on curious artifacts of these more accurate measurements, Rabi suggested that the deuteron had an electric quadrupole moment. For the creation of the molecular-beam magnetic-resonance detection method, Rabi was awarded the Nobel Prize in Physics in This device, which promised to revolutionize radar , demolished any thoughts the Americans had entertained about their technological leadership. The name Radiation Laboratory was chosen as both unremarkable and a tribute to the Berkeley Radiation Laboratory. Loomis recruited Lee DuBridge to run it. Among those who volunteered was Rabi. His assignment was to study the magnetron, which was so secret that it had to be kept in a safe. This was done; the technological obstacles were gradually overcome, and a working US microwave radar set was produced. The laboratory went on to develop air-to-surface radar to detect submarines, the SCR radar for fire control , and LORAN , a long-range radio navigation system. They convinced Oppenheimer that his plan for a military laboratory would not work, since a scientific effort would need to be a civilian affair. The plan was modified, and the new laboratory would be a civilian one, run by the University of California under contract from the War Department. In the end, Rabi still did not go west, but did agree to serve as a consultant to the Manhattan Project. The scientists working on Trinity set up a betting pool on the yield of the test, with predictions ranging from total dud to 45 kilotons of TNT equivalent kt. Rabi arrived late and found the only entry left was for 18 kilotons, which he purchased. Richtmyer , wherein he proposed that the magnetic resonance of atoms might be used as the basis of a clock. This meant that he was free to research or teach whatever he chose. Rabi and Ramsey assembled a group of universities in the New York area to lobby for their own national laboratory. Rabi had discussions with Major General Leslie R. Moreover, while the Manhattan Project still had funds, the wartime organization was expected to be phased out when a new authority came into existence. After some bargaining and lobbying by Rabi and others, the two groups came together in January Rabi saw science as a way of inspiring and uniting a Europe that was still recovering from the war. Rabi received a letter from Bohr, Heisenberg, Amaldi and others congratulating him on the success of his efforts. He had the letter framed and hung it on the wall of his home office. Rabi was one of those appointed in December Rabi went further than most of the other members, and joined Fermi in opposing the hydrogen bomb on moral as well as technical grounds. I never forgave Truman for buckling under the pressure. He simply did not understand what it was about. It shows the dangers of this sort of thing. Many witnesses supported Oppenheimer, but none more forcefully than Rabi: There is a real positive record We have an A-bomb and a whole series of it, and we have a whole series of super bombs, and what more do you want, mermaids? While serving in that capacity, he bemoaned the fact that many large software projects were delayed. This prompted discussions that led to the formation of a study group that organized the first conference on software engineering.

Chapter 3 : Mahopac Foreclosure Defense Attorneys - LII New York Attorney Directory

Solutions manual to accompany Probability, statistics, and decision for civil engineers by Jack R. Benjamin, C. Allin Cornell Unknown, Pages, Published

They alleged that the regulation was inconsistent with the Social Security Act and that it denied equal protection of the laws in violation of the Fourteenth Amendment. I do not find it necessary to reach the constitutional argument in this case, for, in my view, the Maryland regulation is inconsistent with the terms and purposes of the Social Security Act. There is no question that States have considerable latitude in allocating their AFDC resources, since each State is free to set its own standard of need and to determine the level of benefits by the amount of funds it devotes to the program. Thus, whatever else may be said of the "latitude" extended to States in determining the benefits payable under AFDC, the holding in King makes clear that it does not include restrictions on the payment of benefits that are incompatible with the Social Security Act. The method used in King was to deny totally benefits to a specifically defined class of otherwise eligible recipients. IV , was to refuse to take additional applications pending a decrease in the number of recipients on the assistance rolls or an increase in available funds. The two methods most commonly employed [p] by the States at present, however, are percentage reductions and grant maximums. Grant maximums, in which payments are made according to need but subject to a stated dollar maximum, are of two types: Only the latter type is at issue in the present case. IV , which states the purpose of the federal AFDC appropriations as enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State. IV , supports this deference to the fiscal decisions of state legislatures. Assuming, arguendo, that a State need not appropriate sufficient funds to pay all eligible AFDC recipients the [p] full amount of their need, it does not follow that it can distribute such funds as it deems appropriate in a manner inconsistent with the Social Security Act. The question involved here is not one of ends; it is one of means. Wyman, decided this day, ante, p. Where percentage reductions are used, the payment of every family is reduced proportionately. The House Committee on Ways and Means, where the provision originated, explained its purpose as follows: Shortage of funds in aid to dependent children has sometimes, as in old-age assistance, resulted in [p] a decision not to take more applications or to keep eligible families on waiting lists until enough recipients could be removed from the assistance rolls to make a place for them. In the court below, the appellants relied upon this legislative history to argue that the "eligible individuals" to whom aid must be furnished are the applicants for aid referred to in the beginning of the provision, and not the individual members of a family unit. The purpose of the AFDC program, as stated in the Act, is to encourage the care of dependent children in their own homes or in the homes of relatives by enabling each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life. The aid provided through the AFDC program has always been intended for the individual dependent children, not for those who apply for the aid on their behalf. The Senate Committee on Finance, in its report on the Social Security Bill of , stated this purpose in the following terms: The heart of any program for social security must be the child. All parts of the Social Security [p] Act are in a very real sense measures for the security of children. In addition, however, there is great need for special safeguards for many underprivileged children. Children are in many respects the worst victims of the depression. Many of the children included in relief families present no other problem than that of providing work for the breadwinner of the family. These children will be benefited through the work relief program, and still more through the revival of private industry. But there are large numbers of children in relief families which will not be benefited through work programs or the revival of industry. Through cash grants adjusted to the needs of the family, it is possible to keep the young children with their mother in their own home, thus preventing the necessity of placing the children in institutions. This is recognized by everyone to be the least expensive and altogether the most desirable method for meeting the needs of these families that has yet been devised. Prior to , no specific provision was made for the need of the parent or other relative with whom the

dependent child was living. Although this underscores [p] the fact that the payments were intended to benefit the children, and not the applicants who received those payments, the exclusion from the federal scheme of provision for the need of the caring relative operated effectively to dilute the ability of the AFDC payments to meet the need of the child. To correct this latter deficiency, the Amendments allowed provision for the needs of this caring relative. Particularly in families with small children, it is necessary for the mother or another adult to be in the home full-time to provide proper care and supervision. Since the person caring for the child must have food, clothing, and other essentials, amounts allotted to the children must be used in part for this purpose if no other provision is made to meet her needs. There is other evidence that Congress intended each eligible recipient to receive his fair share of benefits under the AFDC program. The Public Welfare Amendments of provided that a state AFDC plan must provide for the development and application of a program [p] for [services to maintain and strengthen family life] for each child who receives aid to families with dependent children. The Social Security Amendments of , which extended this program of "family services" to relatives receiving AFDC payments and "essential persons" living in the same home as the child and relative, retained the emphasis on providing these services to "each appropriate individual. Under the Social Security Act Amendments of , an amendment was added to title IV requiring the State welfare agency to make a program for each child, identifying the services needed, and then to provide the necessary services. This has proven a useful amendment, for it has required the States to give attention to the children and to provide services necessary to carry out the plans for the individual child. The committee bill would require, therefore, that the States establish a social services program for each AFDC family. Thus, there will be a broadened emphasis to include a recognition of the needs of all members of the family, including "essential persons. The resources commanded [p] to meet those needs, as well as the definition of those individuals eligible to receive this aid, have expanded over the years. At first, only financial assistance was available. Now "family services" programs have been added. There is no limitation on federal payments based on family size in the present provisions, nor has there ever been such a limitation in previous versions of the Act. Section d 1 of the Act imposes a limitation on federal payments to States as respects children whose eligibility is based upon the absence from the home of a parent. Under this section, the number of AFDC children under the age of 18 for whom federal sharing is available cannot exceed the ratio of AFDC children eligible because of an "absent parent" to the total child [p] population of a State as of January 1, Appellants have argued that this limitation somehow indicates congressional approval of the maximum grant concept. The District Court below properly rejected that contention. The Report of the House Committee on Ways and Means indicates that the purpose of the limitation is to keep federal financial participation "within reasonable bounds," and to "give the States an incentive to make effective use of the constructive programs which the bill would establish. Keeping federal participation "within reasonable bounds" was tied to the fact that the "absent parent" category of AFDC recipients was the one that was growing most rapidly. Representative Mills explained the purpose of this limitation to the House in the following terms: This provision, we believe, would give the States an additional incentive to make effective use of the constructive programs which the bill would establish. Moreover, this limitation on Federal matching will not prevent any deserving family from receiving aid payments. The States would not be free to keep any family off the rolls to keep within this limitation, because there is a requirement in the law that requires equal [p] treatment of recipients and uniform administration of a program within a State. In sum, the provisions of the Act that compute the amount of federal contribution to state AFDC programs are related to state payments to individual recipients and have consistently excluded any limitation based upon family size. The purpose of the AFDC provisions of the Social Security Act is not only to provide for the needs of dependent children, but also "to keep the young children with their mother in their own home, thus preventing the necessity of placing the children in institutions. As the District Court noted, however, the maximum grant regulation provides a powerful economic incentive to break up large families by placing "dependent children" in excess of those whose subsistence needs, when added to the subsistence needs of other members of the family, exceed the maximum grant, in the homes of persons included in the class of eligible relatives. By this device, payments for the "excess" children can be obtained. The District Court correctly states that this incentive to break up family units created by the maximum grant regulation is in

conflict with a fundamental purpose of the Act. The history of the Social Security Act thus indicates that Congress intended the financial benefits, as well as the other benefits, of the AFDC program to reach each individual recipient eligible under the federal criteria. The implication is that, regardless of how the AFDC payments are computed or to whom they apply, the payments will be used by the parents for the benefit of all the members of the family unit. This is no doubt true. If Congress wished to design a scheme under which each family received equal payments, irrespective of the size of the family, I see nothing that would prevent it from doing so. But that is not the scheme of Congress under the present Act. IV , which provides: This section had its genesis in an Administration proposal to require States to pay fully the amounts required by their standard of need, and also to make cost of living adjustments to that standard of need by July 1, , and annually thereafter. The bill that emerged from the House as H. See Hearings on H. A provision requiring a cost of living adjustment in the standard of need by July 1, , and annually thereafter, was added to the House bill by the Senate Finance Committee, and this provision also required that "any maximums. An amendment of the bill was proposed in the Senate that would have required a positive increase in AFDC payments, but that amendment was rejected. Nowhere in any of the hearings, committee reports, or floor debates is there shown a congressional intent to validate state maximum grant regulations by the provisions of a Rather, the legislative history shows that Congress was exclusively concerned with increasing the income of AFDC recipients. If Congress had not required cost of living adjustments in state-imposed grant maximums, the States could easily nullify the effect of the cost of living adjustments for many AFDC families by retaining the grant ceilings in force before the adjustment was made. Congress was, to be sure, acknowledging the existence of maximum grant regulations. But every congressional reference to an existing practice does not automatically imply approval of that practice. The task of statutory construction requires more. It requires courts to look to the context of that reference, and to the history of relevant legislation. In the present context, the reference to maximum [p] grants was necessary to preserve the integrity of the cost of living adjustment required by the bill. No further significance can legitimately be read into that reference. This amendment, which has since been superseded, authorized "protective payments" to an individual other than the relative with whom the dependent child is living. The problem which this amendment was designed to cure was that some payees were unable to manage their funds so that the dependent children received the full benefit of the AFDC payments. The House bill required "a meeting of all need as determined by the State" as a condition to including "protective payments" within the definition of "aid to families with dependent children. The Senate Committee explained this provision as follows:

Chapter 4 : Benjamin Wesley Cornell () - Find A Grave Memorial

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Chapter 5 : List of Cornell University alumni - Wikipedia

Research genealogy for Benjamin W Cornell of Fountain, Indiana, USA, as well as other members of the Cornell family, on Ancestry.

Chapter 6 : PUCKETT v. UNITED STATES

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