The Burger Court Opinion
Writing Database

*Phoenix v. Koldziejski*
399 U.S. 204 (1970)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University
Re: No. 1066 - City of Phoenix v. Kolodziejski

Dear Byron:

I regret that I remain one of those "who will never learn". At least I haven't learned enough to expand the equal protection doctrine beyond the limits of its intended scope! So I will remain with the dissenters and wait on what Hugo or Potter may write.

Regards,

W. E. B.

Mr. Justice White

cc: The Conference
Supreme Court of the United States
Washington, D.C. 20543

July 12, 1970

Re: No. 1066 - City of Phoenix v. Kolodziejski

Dear Potter:

Please join me in your dissent.

W. E. B.

Mr. Justice Stewart

cc: The Conference
April third
1970

Dear Chief:

In No. 1066 - City of Phoenix
v. Kolodziej, you asked me to make
the assignment. I suggest Byron.

William O. Douglas

The Chief Justice
June 10, 1879


Dear Father:
Pleased to join you in your denominational
conference.

Yours,

[Signature]
May 12, 1970

RE: No. 1066 - Phoenix v. Kolodziejski

Dear Byron:

I agree with your opinion in the above case.

Sincerely,

W. J. B. Jr.

Mr. Justice White

cc: The Conference
MR. JUSTICE STEWART, dissenting.

If this case really involved an "election," that is, a choice by popular vote of candidates for public office under a system of representative democracy, then our frame of reference would necessarily have to be Reynolds v. Sims, 377 U. S. 533, and its progeny. For, rightly or wrongly, the Court has said that in cases where public officials with legislative or other governmental power are to be elected by the people, the Constitution requires that the electoral franchise must generally reflect a regime of political suffrage based upon "one man, one vote." Recent examples of that constitutional doctrine are the Court's decisions in Kramer v. Union Free School District, 395 U. S. 621, involving the franchise to vote for the members of a school board; and Hadley v. Junior College District, 397 U. S. 50, involving the apportionment of voting districts for the election of the trustees of a state junior college.

Whether or not one accepts the constitutional doctrine embodied in those decisions, they are of little relevance here. For in this case nobody has claimed that the members of the City Council of Phoenix, Arizona—the appellants here—were elected in any way other than on a one man, one vote basis, or that they do not fully and fairly represent the entire electorate of the munici-
MR. JUSTICE STEWART, whom THE CHIEF JUSTICE and MR. JUSTICE HARLAN join, dissenting.

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SUPREME COURT OF THE UNITED STATES

No. 1066.—October Term, 1969.


On Appeal From the United States District Court for the District of Arizona.

[May —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

In Kramer v. Union Free School District, 395 U. S. 621 (1969), this Court held that a State could not restrict the vote in school board elections to owners and lessees of real property and parents of school children because the exclusion of otherwise qualified voters was not shown to be necessary to promote a compelling state interest. This ruling, by its terms applicable to elections of public officials, was extended to elections for the approval of revenue bonds to finance local improvements in Cipriano v. City of Houma, 395 U. S. 701 (1969). Our decision in Cipriano did not, however, reach the question now presented for decision: Does the Federal Constitution permit a State to restrict to real property taxpayers the vote in elections to approve the issuance of general obligations bonds?

This question arises in the following factual setting: On June 10, 1969, the City of Phoenix, Arizona, held an election to authorize the issuance of $60,450,000 in general obligation bonds as well as certain revenue bonds. Under Arizona law, property taxes were to be levied to service this indebtedness, although the city was legally
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June 10, 1970

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Dear Byron:

Please join me.

Sincerely,

T.M.

Mr. Justice White

cc: The Conference