

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



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

May 13, 1970

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

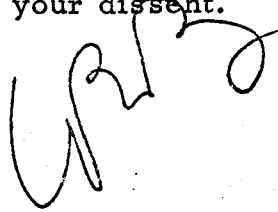
CHAMBERS OF
THE CHIEF JUSTICE

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. Kolodziejnski, you asked me to make
the assignment. I suggest Byron.

William O. Douglas

The Chief Justice

June 10, 1970

Re: Phoenixy. Kolodziejki

Dear Father:

Please join me in your dissenting
opinion.

Sincerely,

J. M. R.

Mr. Justice Stewart

U.S. Supreme Court

June 18, 1970

Re: No. 1000 - Phoenix v. Katschinski

Dear Father:

With respect to your dissent in the above case, which I have joined, would you be good enough to add the following sentence at the end of your dissent: "Mr. Justice Harlan also joins in Part II of the Court's opinion, subject, however, to the same agreement in his concurring opinion in United States v. Martin L. Donnelly, 397 U.S. 262, 269 (1970)."

Mr. William Bennett

CC: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

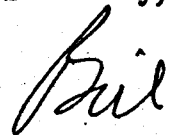
May 12, 1970

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

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REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

No. 1066.—OCTOBER TERM, 1969.

From: Stewart J
JUN 10 1970

Circulated: _____

City of Phoenix, Arizona,
et al., Appellants,
v.
Emily Kolodziejski.

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

Recirculated: _____

[June —, 1970]

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 municipi-

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
✓ Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

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172-14

SUPREME COURT OF THE UNITED STATES

Stewart, J.

No. 1066.—OCTOBER TERM, 1969.

Circulated:

Recirculated:

JUN 1 1970

City of Phoenix, Arizona,
et al., Appellants,
v.
Emily Kolodziejski.

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

[June —, 1970]

MR. JUSTICE STEWART, whom THE CHIEF JUSTICE and
MR. JUSTICE HARLAN join, 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.

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
✓ Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Fortas
Mr. Justice Marshall

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From: White, J.

SUPREME COURT OF THE UNITED STATES

Regulated: 5-8-70

No. 1066.—OCTOBER TERM, 1969.

Recirculated: _____

City of Phoenix, Arizona,
et al., Appellants,
v.
Emily Kolodziejski. } 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

Stylistic changes.
See p. 11

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
✓ Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Fortas
Mr. Justice Marshall

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From: White, J.

SUPREME COURT OF THE UNITED STATES

No. 1066.—OCTOBER TERM, 1969.

Recirculated: 5-12-70

City of Phoenix, Arizona, et al., Appellants, v. Emily Kolodziejski.	} On Appeal From the United States District Court for the District of Arizona.
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[May —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

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STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 1, 9-11

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
✓ Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun

From: White, J.

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SUPREME COURT OF THE UNITED STATES

Circulated: _____
Recirculated: 6-22-70

No. 1066.—OCTOBER TERM, 1969.

City of Phoenix, Arizona, et al., Appellants, v. Emily Kolodziejki.	}	On Appeal From the United States District Court for the District of Arizona.
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[June 23, 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 district 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 obligation bonds?

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 10, 1970

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

Dear Byron:

Please join me.

Sincerely,


T.M.

Mr. Justice White

cc: The Conference