

The Burger Court Opinion Writing Database

Williams v. Illinois

399 U.S. 235 (1970)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



To: Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas
Mr. Justice Marshall

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From: The Chief Justice

SUPREME COURT OF THE UNITED STATES

Circulated: 6/9/70

No. 1089.—OCTOBER TERM, 1969

Recirculated: _____

Willie E. Williams,)
Appellant,) On Appeal From the Supreme
v.) Court of Illinois.
State of Illinois.)

[June —, 1970]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

This appeal from Illinois presents an important question involving a claim of discriminatory treatment based upon financial inability to pay a fine and court costs imposed in a criminal case. The narrow issue raised is whether an indigent may be continued in confinement beyond the maximum term specified by statute because of his failure to satisfy the monetary provisions of the sentence. We noted probable jurisdiction¹ and set the case for oral argument with No. 782, *Morris v. Schoonfield*, — U. S. —, also decided today.

On August 16, 1967, after a trial by a judge, appellant was convicted of petty theft and received the maximum sentence provided by state law: one year imprisonment and a \$500 fine.² Appellant was also taxed \$5 in court costs. The judgment directed, as permitted by statute, that if appellant was in default of the payment of the fine and court costs at the expiration of the one-year sentence, he should remain in jail pursuant to § 1-7 (k)

¹ — U. S. —.

² Ill. Rev. Stat. 1967, c. 38, ¶ 16-I, which proscribes theft of property not from the person and not exceeding \$1,450 in value.

EDITORIAL CHANGES THROUGHOUT,
MAYBE AS INDICATED ON PP.
2, 3, 7, 8, 9, 10

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

SUPREME COURT OF THE UNITED STATES App. The Chief Justice

No. 1089.—OCTOBER TERM, 1969

Circulated: JUN 16 1970

Recirculated:

Willie E. Williams,)
Appellant,) On Appeal From the Supreme
v.) Court of Illinois.
State of Illinois.)

[June —, 1970]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

This appeal from Illinois presents an important question involving a claim of discriminatory treatment based upon financial inability to pay a fine and court costs imposed in a criminal case. The narrow issue raised is whether an indigent may be continued in confinement beyond the maximum term specified by statute because of his failure to satisfy the monetary provisions of the sentence. We noted probable jurisdiction¹ and set the case for oral argument with No. 782, *Morris v. Schoonfield*, — U. S. —, also decided today.

On August 16, 1967, appellant was convicted of petty theft and received the maximum sentence provided by state law: one year imprisonment and a \$500 fine.² Appellant was also taxed \$5 in court costs. The judgment directed, as permitted by statute, that if appellant was in default of the payment of the fine and court costs at the expiration of the one-year sentence, he should remain in jail pursuant to § 1-7 (k) of the Ill. Crim. Code to "work off" the monetary obligations at the rate

¹ — U. S. —.

² Ill. Rev. Stat. 1967, c. 38, ¶ 16-I, which proscribes theft of property not from the person and not exceeding \$150 in value.

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

CHIEF OF
THE CHIEF JUSTICE

June 18, 1970

MEMORANDUM TO THE CONFERENCE

Re: No. 1089 - Williams v. Illinois

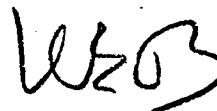
I propose to clarify the opinion sent to you on June 16 by adding:

A) at page 10, line 8, after the word "State", the following: "by legislative enactment -- or judges within the scope of their authority. -- "

B) at page 11, as a final paragraph:

"Nothing we hold today limits the power of the sentencing judge to impose alternative sanctions permitted by Illinois law; the definition of such alternatives, if any, lies with the Illinois courts. We therefore vacate the judgment appealed from and remand to the Supreme Court of Illinois for further proceedings not inconsistent with this opinion.

It is so ordered. "



W. E. B.

June tenth
1970

Dear Chief:

In No. 1089 -- Williams v.
Illinois, you have written a fine opinion
and I am happy to join you.

William O. Douglas

The Chief Justice

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

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SUPREME COURT OF THE UNITED STATES

Harlan, J.

No. 1089. OCTOBER TERM, 1969

Circulated: JUN 18 1970

Recirculated: _____

Willie E. Williams, }
Appellant, } On Appeal From the Supreme
v. } Court of Illinois.
State of Illinois. }

[June —, 1970]

MR. JUSTICE HARLAN, concurring in the result.

I concur in today's judgment, but in doing so wish to dissociate myself from the "equal protection" rationale employed by the Court to justify its conclusions.

The "equal protection" analysis of the Court is, I submit, a "wolf in a sheep's clothing," for that rationale is no more than a masquerade of a supposedly objective standard for *subjective* judicial judgment as to what state legislation offends notions of "fundamental fairness." Under the rubric of "equal protection" this Court has in recent times effectively substituted its own "enlightened" social philosophy for that of the legislature no less than did in the older days the judicial adherents of the now discredited doctrine of "substantive" due process. I, for one, would prefer to judge the legislation before us in this case in terms of due process, that is to determine whether it arbitrarily infringes a constitutionally protected interest of this petitioner. Due process, as I noted in my dissenting opinion in *Poe v. Ullman*, 367 U. S. 497, 522 (1961), is more than merely a procedural safeguard; it is also a "bulwark [] against arbitrary legislation." *Hurtado v. California*, 110 U. S. 516, 532. See *Flemming v. Nestor*, 363 U. S. 603 (1958), and my dissenting opinion in *Shapiro v. Thompson*, 394 U. S. 618, 655 (1969).

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2, 5, 6, 8

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

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SUPREME COURT OF THE UNITED STATES

No. 1089. OCTOBER TERM, 1969 From: Harlan, J.

Circulated: JUN 23 1970

Willie E. Williams,
Appellant,
v.
State of Illinois.

On Appeal From the Supreme Court of Illinois.

[June —, 1970]

MR. JUSTICE HARLAN, concurring in the result.

I concur in today's judgment, but in doing so wish to dissociate myself from the "equal protection" rationale employed by the Court to justify its conclusions.

The "equal protection" analysis of the Court is, I submit, a "wolf in a sheep's clothing," for that rationale is no more than a masquerade of a supposedly objective standard for *subjective* judicial judgment as to what state legislation offends notions of "fundamental fairness." Under the rubric of "equal protection" this Court has in recent times effectively substituted its own "enlightened" social philosophy for that of the legislature. no less than did in the older days the judicial adherents of the now discredited doctrine of "substantive" due process. I, for one, would prefer to judge the legislation before us in this case in terms of due process, that is to determine whether it arbitrarily infringes a constitutionally protected interest of this petitioner. Due process, as I noted in my dissenting opinion in *Poe v. Ullman*, 367 U. S. 497, 522 (1961), is more than merely a procedural safeguard; it is also a "bulwark [] against arbitrary legislation." *Hurtado v. California*, 110 U. S. 516, 532. See *Flemming v. Nestor*, 363 U. S. 603 (1958), and my dissenting opinion in *Shapiro v. Thompson*, 394 U. S. 618, 655 (1969).

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 18, 1970

RE: No. 1089 - Williams v. Illinois

Dear Chief:

I agree.

Sincerely,



W.J.B. Jr.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 10, 1970

No. 1089, Williams v. Illinois

Dear Chief,

I am glad to join your opinion for
the Court in this case.

Sincerely yours,

P.S.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 18, 1970

Re: No. 1089 - Williams v. Illinois

Dear Chief:

Please join me.

Sincerely,



B.R.W.

The Chief Justice

copies to The Conference