

The Burger Court Opinion Writing Database

Walker v. Ohio

398 U.S. 434 (1970)

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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

From: The Chief Justice

Circulated: 6/10/70

October Term, 1969

Recirculated: _____

WALKER v. OHIO

APPEAL FROM THE SUPREME COURT OF OHIO

No. 1470. Decided June —, 1970

MR. CHIEF JUSTICE BURGER, dissenting.

The trial court, endeavoring to apply the standards articulated by this Court, held that the materials in question are obscene within the meaning of the relevant Ohio statute. This conclusion rested on findings that the materials are patently offensive to contemporary community standards relating to the description or representation of sexual matters, that when taken as a whole, their dominant theme appeals to the prurient interest of the reader, and that they are utterly without redeeming social value. The Ohio appellate courts declined to disturb that judgment. Yet today the Court reverses, citing only *Redrup*.

I dissent from such a summary disposition, not only for the reasons expressed in my separate opinion in *Cain v. Kentucky*, 397 U. S. 319 (1970), but also because I find no justification, constitutionally or otherwise, for this Court's assuming the role of a supreme and unreviewable board of censorship for the 50 States, subjectively judging each piece of material brought before it without regard to the findings or conclusions of other courts, state or federal. That is not one of the purposes for which this Court was established.

Handwritten mark

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

CHAMBERS OF
JUSTICE JOHN M. HARLAN

June 8, 1970

Re: No. 1470 - Walker v. Ohio

Dear Bill:

Will you kindly add at the foot of your per curiam
the following:

MR. JUSTICE HARLAN, for reasons
expressed in his separate opinions in Roth v. United
States, 354 U.S. 476, 496 (1957); Jacobellis v. Ohio,
378 U.S. 184, 203 (1964); Memoirs v. Massachusetts,
383 U.S. 413, 455 (1966), would leave the judgment
of the state court undisturbed. "

Sincerely,



J.M.H.

Mr. Justice Brennan

CC: The Conference

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SUPREME COURT OF THE UNITED STATES

October Term, 1969

WALKER *v.* OHIO

APPEAL FROM THE SUPREME COURT OF OHIO

No. 1470. Decided June —, 1970

PER CURIAM.

The judgment of the Supreme Court of Ohio is reversed. *Redrup v. New York*, 386 U. S. 767 (1967).

MR. JUSTICE MARSHALL took no part in the consideration or decision of this case.

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SUPREME COURT OF THE UNITED STATES

October Term, 1969

WALKER v. OHIO

APPEAL FROM THE SUPREME COURT OF OHIO

No. 1470. Decided June —, 1970

PER CURIAM.

The judgment of the Supreme Court of Ohio is reversed. *Redrup v. New York*, 386 U. S. 767 (1967).

MR. JUSTICE HARLAN, for reasons expressed in his separate opinions in *Roth v. United States*, 354 U. S. 476, 496 (1957); *Jacobellis v. Ohio*, 378 U. S. 184, 203 (1964); *Memoirs v. Massachusetts*, 383 U. S. 413, 455 (1966), would leave the judgment of the state court undisturbed.

MR. JUSTICE MARSHALL took no part in the consideration or decision of this case.

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 10, 1970

No. 1470 - Walker v. Ohio

Dear Bill,

I am glad to join the Per Curiam
you have prepared in this case.

Sincerely yours,

P.S.
↙

Mr. Justice Brennan

Copies to the Conference