The Burger Court Opinion Writing Database

Hoyt v. Minnesota

399 U.S. 524 (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

June 23, 1970

Re: No. 1544 - Hoyt v. Minnesota

Dear Harry:

Please join me. The authorities you rely upon are unassailable and impeccable. Following such guidelines you can get into no trouble -- except occasionally with misguided majorities.

Regards,

WEB

W. E. B.

Mr. Justice Blackmun

cc: The Conference

June 23, 1970

Re: No. 1544 - Hoyt v. Minnesota

Dear Harry:

I would appreciate your joining me in your dissent.

Sincerely,

J.M.H.

Mr. Justice Blackmun

CC: The Conference

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

From: Blackmun, J.

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SUPREME COURT OF THE UNITED STATES

October Term, 1969

HOYT ET AL. *v.* MINNESOTA

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF MINNESOTA

No. 1544. Decided June —, 1970

MR. JUSTICE BLACKMUN. dissenting

I am not persuaded that the First and Fourteenth Amendments necessarily prescribe a national and uniform measure—rather than one capable of some flexibility and resting on concepts of reasonableness—of what each of our several States constitutionally may do to regulate obscene products within its borders.

Here a Minnesota trial court (just as the Ohio trial court did in *Walker* v. *Ohio*, — U. S. — (1970)), endeavored to apply standards articulated by this Court in prior cases, and embodied in a precisely worded Minnesota statute, and reached the conclusion that the materials in question were obscene within the meaning of that statutory definition. Six of the seven Justices of the Supreme Court of that State, citing *Redrup* v. *New York*, 386 U. S. 767 (1967), and other decisions of this Court, have identified the offending material "for what it is," have described it as dealing "with filth for the sake of filth," and have held it obscene as a matter of law. 174 N. W. 2d, at 702. I cannot agree that the Minnesota trial court and those six Justices are so obviously misguided in their holding that they are to be summarily reversed on the authority of *Redrup*.

At this still, for me, unsettled stage in the development of state law of obscenity in the federal constitutional context I find myself generally in accord with the views expressed by MR. JUSTICE HARLAN in *Roth* v. *United*