

# The Burger Court Opinion Writing Database

## *Parker v. North Carolina*

397 U.S. 790 (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

March 5, 1970

Re: No. 268 - Parker v. North Carolina

Dear Byron:

Join me in your opinion affirming.

W. E. B.

Mr. Justice White

cc: The Conference

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**SUPREME COURT OF THE UNITED STATES**

Nos. 268 AND 270.—OCTOBER TERM, 1969

Charles Lee Parker, Petitioner, } On Writ of Certiorari to  
268 v. } the Court of Appeals  
State of North Carolina. } of North Carolina.

Robert M. Brady, Petitioner, } On Writ of Certiorari  
270 v. } to the United States  
United States. } Court of Appeals for  
the Tenth Circuit.

[April —, 1970]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join; dissenting in No. 268 and concurring in the result in No. 270.

In *United States v. Jackson*, 390 U. S. 570 (1968), we held that the operative effect of the capital punishment provisions of the Federal Kidnaping Act was unconstitutionally "to discourage assertion of the Fifth Amendment right not to plead guilty and to deter exercise of the Sixth Amendment right to demand a jury trial." 390 U. S., at 581. The petitioners in these cases claim that they were the victims of the very vices we condemned in *Jackson*. Yet the Court paradoxically holds that each of the petitioners must be denied relief even if his allegations are substantiated.<sup>1</sup> Indeed, the Court apparently holds that never, except perhaps in highly unrealistic hypothetical situations, will the constitutional

<sup>1</sup>The present discussion, while containing occasional references to the Federal Kidnaping Act, is equally applicable to *Parker*, for, as I shall demonstrate in Part II of this opinion, there is no pertinent distinction between the Kidnaping Act and the North Carolina statutes under which Parker was convicted.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

March 3, 1970

No. 268 - Parker v. North Carolina

Dear Byron,

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

Sincerely yours,

P.S.  
/

Mr. Justice White

Copies to the Conference

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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

From: White, J.

1

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**SUPREME COURT OF THE UNITED STATES**

Revised: \_\_\_\_\_

No. 268.—OCTOBER TERM, 1969

Charles Lee Parker, Petitioner,

*v.*

State of North Carolina.

On Writ of Certiorari  
to the Court of  
Appeals of North  
Carolina.

[February —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

At about 11 p. m. on July 16, 1964, petitioner was arrested after entering the yard of a home where a burglary and rape had been committed four days earlier. Petitioner, a Negro boy, then 15-years-old, was taken to the police station and was questioned for one or two hours. After the questioning, petitioner was placed alone in a dimly lit cell for the remainder of the night. Although petitioner refused to give even his name during the questioning, the police eventually determined his identity and notified petitioner's mother between 3:30 and 4:30 a. m. The next morning, petitioner was given drinking water and was then questioned by the police; petitioner almost immediately confessed to the burglary and rape committed several days earlier at the house where he had been arrested. Shortly thereafter, an attorney retained by petitioner's mother came to the police station and talked with petitioner. Petitioner told the attorney that the confession had not been prompted by threats or promises and that he had not been frightened when he made the statement to the police.

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

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From: White, J.

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**SUPREME COURT OF THE UNITED STATES**

No. 268.—OCTOBER TERM, 1969

Charles Lee Parker, Petitioner,	}	On Writ of Certiorari to the Court of Appeals of North Carolina.
v.		
State of North Carolina.		

[March —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

At about 11 p. m. on July 16, 1964, petitioner was arrested after entering the yard of a home where a burglary and rape had been committed four days earlier. Petitioner, a Negro boy then 15 years old, was taken to the police station and was questioned for one or two hours. After the questioning, petitioner was placed alone in a dimly lit cell for the remainder of the night. Although petitioner refused to give even his name during the questioning, the police eventually determined his identity and notified petitioner's mother between 3:30 and 4:30 a. m. The next morning, petitioner was given drinking water and was then questioned by the police; petitioner almost immediately confessed to the burglary and rape committed several days earlier at the house where he had been arrested. Shortly thereafter, an attorney retained by petitioner's mother came to the police station and talked with petitioner. Petitioner told the attorney that the confession had not been prompted by threats or promises and that he had not been frightened when he made the statement to the police.

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p. 10

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

*Attended  
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Opin #  
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CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 30, 1970

MEMORANDUM FOR THE CONFERENCE

Re: No. 268 - Parker v. North Carolina

You will note that much of the discussion concerning Parker's confession claim, see Part II, has been transferred to the opinion in McMann.

*B.R.W.*

B.R.W.



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

From: White, J.

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**SUPREME COURT OF THE UNITED STATES**

No. 268.—OCTOBER TERM, 1969

Charles Lee Parker, Petitioner, }  
v. } On Writ of Certiorari  
State of North Carolina. } to the Court of  
Appeals of North  
Carolina.

[April —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

At about 11 p. m. on July 16, 1964, petitioner was arrested after entering the yard of a home where a burglary and rape had been committed four days earlier. Petitioner, a Negro boy then 15 years old, was taken to the police station and was questioned for one or two hours. After the questioning, petitioner was placed alone in a dimly lit cell for the remainder of the night. Although petitioner refused to give even his name during the questioning, the police eventually determined his identity and notified petitioner's mother between 3:30 and 4:30 a. m. The next morning, petitioner was given drinking water and was then questioned by the police; petitioner almost immediately confessed to the burglary and rape committed several days earlier at the house where he had been arrested. Shortly thereafter, an attorney retained by petitioner's mother came to the police station and talked with petitioner. Petitioner told the attorney that the confession had not been prompted by threats or promises and that he had not been frightened when he made the statement to the police.

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STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 3, 4

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

From: White, J.

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**SUPREME COURT OF THE UNITED STATES**

MAY 1 1970

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No. 268.—OCTOBER TERM, 1969

Charles Lee Parker, Petitioner,	}	On Writ of Certiorari to the Court of Appeals of North Carolina.
v.		
State of North Carolina.		

[April —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

At about 11 p. m. on July 16, 1964, petitioner was arrested after entering the yard of a home where a burglary and rape had been committed four days earlier. Petitioner, a Negro boy then 15 years old, was taken to the police station and was questioned for one or two hours. After the questioning, petitioner was placed alone in a dimly lit cell for the remainder of the night. Although petitioner refused to give even his name during the questioning, the police eventually determined his identity and notified petitioner's mother between 3:30 and 4:30 a. m. The next morning, petitioner was given drinking water and was then questioned by the police; petitioner almost immediately confessed to the burglary and rape committed several days earlier at the house where he had been arrested. Shortly thereafter, an attorney retained by petitioner's mother came to the police station and talked with petitioner. Petitioner told the attorney that the confession had not been prompted by threats or promises and that he had not been frightened when he made the statement to the police.