

# The Burger Court Opinion Writing Database

## *Price v. Georgia*

398 U.S. 323 (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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SUPREME COURT OF THE UNITED STATES

From: The Chief Justice

Circulated: JUN 8 1970

No. 269.—OCTOBER TERM, 1969

Recirculated: \_\_\_\_\_

Earl Price, Petitioner, }  
v. } On Writ of Certiorari to the  
State or Georgia. } Supreme Court of Georgia.

[June —, 1970]

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

We granted the writ to consider the power of a State to retry an accused for murder after an earlier guilty verdict on the lesser included offense of voluntary manslaughter had been set aside because of a trial error.

Petitioner was charged with the killing of Johnnie Mae Dupree in an indictment for the offense of murder filed in the Superior Court of Effingham County, Georgia. He entered a plea of not guilty and was tried on October 17, 1962; the jury returned a verdict of guilty to the lesser included crime of voluntary manslaughter and fixed the sentence at 10 to 15 years in the state penitentiary. The jury's verdict made no reference to the charge of murder.

The Court of Appeals of Georgia reversed the conviction because of an erroneous jury instruction and ordered a new trial. See *Price v. State*, 108 Ga. App. 581, 133 S. E. 2d 916 (1963).

On October 20, 1967, petitioner was again placed on trial for murder under the original indictment. Before the commencement of the second trial petitioner entered a plea of *autrefois acquit*, claiming that to place him again on trial for the offense of murder would expose him to double jeopardy in view of the verdict of voluntary

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*Changes as marked*

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

No. 269.—OCTOBER TERM, 1969

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Recirculated: JUN 12 1970

Earl Price, Petitioner, }  
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State of Georgia. } Supreme Court of Georgia.

[June —, 1970]

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The Court of Appeals of Georgia reversed the conviction because of an erroneous jury instruction and ordered a new trial. *Price v. State*, 108 Ga. App. 581, 133 S. E. 2d 916 (1963).

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Styfishie  
Douglas

To: Mr. Justice Black  
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Mr. Justice Marshall  
Mr. Justice Blackmun

From: The Chief Justice

SUPREME COURT OF THE UNITED STATES

Circulated: \_\_\_\_\_

JUN 13 1970

No. 269.—OCTOBER TERM, 1969 Recirculated: \_\_\_\_\_

Earl Price, Petitioner, }  
v. } On Writ of Certiorari to the  
State of Georgia. } Supreme Court of Georgia.

[June 15, 1970]

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

We granted the writ to consider the power of a State to retry an accused for murder after an earlier guilty verdict on the lesser included offense of voluntary manslaughter had been set aside because of a trial error.

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June 9, 1970

Re: No. 269 - Price v. Georgia

Dear Chief:

Please join me.

Sincerely,

B.R.W.

The Chief Justice

cc: The Conference

W.B.

June 10, 1970

Dear Chief,

I am happy to agree to your opinion in  
No. 269, Earl Price v. State of Georgia.

Sincerely,

H. L. B.

The Chief Justice

cc: Members of the Conference

June 8, 1970

Re: No. 169 - Price v. Georgia

Dear Clerk:

I am glad to join your opinion in this

case

Sincerely,

J. H. S.

John H. S.

John H. S.

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 9, 1970

RE: No. 269 - Price v. Georgia

Dear Chief:

I agree with the opinion you have prepared  
in the above case.

Sincerely,

*Bill*  
W. J. B. Jr.

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 9, 1970

No. 269 - Price v. Georgia

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 THURGOOD MARSHALL

June 12, 1970

Re: No. 269 - Earl Price v. Georgia

Dear Chief:

Please join me.

Sincerely,



T.M.

The Chief Justice

cc: The Conference