

The Burger Court Opinion Writing Database

Brady v. United States

397 U.S. 742 (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. 270 - Brady v. United States

Dear Byron:

Please join me.

A handwritten signature consisting of a large, stylized letter 'B' with a vertical line through it, enclosed in a circle.

W. E. B.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

February 20, 1970

Dear Byron:

Re: No. 270 - Robert M. Brady v.
United States

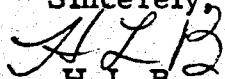
Please note at the end of your opinion
as follows:

"MR. JUSTICE BLACK, while adhering
to his belief that United States v. Jackson, 390
U.S. 570 was wrongly decided, concurs in
the judgment and in substantially all of the
opinion in this case."

* * * *

Re: No. 268 - Parker v. No. Car.

I concur in the judgment of affirmance
and also concur in the opinion except that part
on page 4 stating, "It may be that under United
States v. Jackson, 390 U.S. 570 it was uncon-
stitutional to impose the death penalty under the
statutory framework which existed in North
Carolina at the time of Parker's plea."

Sincerely,

H. L. B.

Mr. Justice White
cc: Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 3, 1970

No. 270, Brady v. United States

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

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

2

From: White, J.

Circulated: 2-17-70¹⁸

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 270.—OCTOBER TERM, 1969

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

[February —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

In 1959, petitioner was charged with kidnaping in violation of 18 U. S. C. § 1201 (a).¹ Since the indictment charged that the victim of the kidnaping was not liberated unharmed, petitioner faced a maximum penalty of death if the verdict of the jury should so recommend. Petitioner, represented by competent counsel throughout, first elected to plead not guilty. Apparently because the trial judge was unwilling to try the case without a jury, petitioner made no serious attempt to reduce the possibility of a death penalty by waiving a jury trial. Upon learning that his codefendant, who had confessed to the authorities, would plead guilty and be available to testify against him, petitioner changed his plea to guilty. His plea was accepted after the trial judge twice

¹“Whoever knowingly transports in interstate or foreign commerce, any person who has been unlawfully seized, confined, inveigled, decoyed, kidnaped, abducted, or carried away and held for ransom or reward or otherwise, except, in the case of a minor, by a parent thereof, shall be punished (1) by death if the kidnaped person has not been liberated unharmed, and if the verdict of the jury shall so recommend, or (2) by imprisonment for any term of years or for life, if the death penalty is not imposed.”

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pp 6, 13, 15, 16

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.

SUPREME COURT OF THE UNITED STATES

No. 270.—OCTOBER TERM, 1969

Recirculated: 3-6-70

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

[March —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

In 1959, petitioner was charged with kidnaping in violation of 18 U. S. C. § 1201 (a).¹ Since the indictment charged that the victim of the kidnaping was not liberated unharmed, petitioner faced a maximum penalty of death if the verdict of the jury should so recommend. Petitioner, represented by competent counsel throughout, first elected to plead not guilty. Apparently because the trial judge was unwilling to try the case without a jury, petitioner made no serious attempt to reduce the possibility of a death penalty by waiving a jury trial. Upon learning that his codefendant, who had confessed to the authorities, would plead guilty and be available to testify against him, petitioner changed his plea to guilty. His plea was accepted after the trial judge twice

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STYLISTIC CHANGES THROUGHOUT.

SEE PAGES:

pp 4, 9, 13, 14

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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Circulated: _____

SUPREME COURT OF THE UNITED STATES

Recirculated: 4-10-70

No. 270.—OCTOBER TERM, 1969

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

[April —, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

In 1959, petitioner was charged with kidnaping in violation of 18 U. S. C. § 1201 (a).¹ Since the indictment charged that the victim of the kidnaping was not liberated unharmed, petitioner faced a maximum penalty of death if the verdict of the jury should so recommend. Petitioner, represented by competent counsel throughout, first elected to plead not guilty. Apparently because the trial judge was unwilling to try the case without a jury, petitioner made no serious attempt to reduce the possibility of a death penalty by waiving a jury trial. Upon learning that his codefendant, who had confessed to the authorities, would plead guilty and be available to testify against him, petitioner changed his plea to guilty. His plea was accepted after the trial judge twice

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STYLISTIC CHANGES THROUGHOUT.

SEE PAGES: 9, 12-14

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

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From: White, J.

SUPREME COURT OF THE UNITED STATES

Calculated: _____

No. 270.—OCTOBER TERM, 1969

Recirculated: MAY 2 1970

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

[May 4, 1970]

MR. JUSTICE WHITE delivered the opinion of the Court.

In 1959, petitioner was charged with kidnaping in violation of 18 U. S. C. § 1201 (a).¹ Since the indictment charged that the victim of the kidnaping was not liberated unharmed, petitioner faced a maximum penalty of death if the verdict of the jury should so recommend. Petitioner, represented by competent counsel throughout, first elected to plead not guilty. Apparently because the trial judge was unwilling to try the case without a jury, petitioner made no serious attempt to reduce the possibility of a death penalty by waiving a jury trial. Upon learning that his codefendant, who had confessed to the authorities, would plead guilty and be available to testify against him, petitioner changed his plea to guilty. His plea was accepted after the trial judge twice

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