

The Burger Court Opinion Writing Database

Conway v. California Adult Authority
396 U.S. 107 (1969)

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

November 18, 1969

MEMORANDUM TO THE CONFERENCE

Re: No. 40 - Conway v. California Adult Authority

I have directed the Clerk to prepare an order dismissing the above writ as improvidently granted. My record shows this was unanimous action but no one is foreclosed from advising the Clerk otherwise.

WEB

cc: Mr. Davis

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

CHAMBERS OF
THE CHIEF JUSTICE

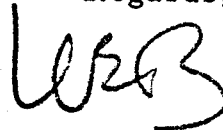
November 28, 1969

Re: No. 40 - Conway v. California Adult Authority

Dear John:

I concur. I particularly like your admonition
on the cert grant.

Regards,



W. E. B.

Mr. Justice Harlan

cc: The Conference

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

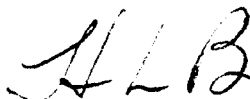
December 2, 1969

Dear John,

Re: Your Per Curiam Opinion in No.
40, Conway v. California Adult Authority,

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read 'H L B', written in dark ink.

H. L. B.

Mr. Justice Harlan

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

J. Aguirre

SUPREME COURT OF THE UNITED STATES

From: Harlan, Jr. NOV 28 1969
Circulated: _____

No. 40.—OCTOBER TERM, 1969

Recirculated: _____

James Conway, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
California Adult Authority } Appeals for the Ninth
et al. } Circuit.

[November —, 1969]

PER CURIAM.

The petition for habeas corpus in this case, which was filed in the District Court for the Northern District of California and which was prepared by petitioner *pro se*, attacked the constitutionality of petitioner's confinement in the state prison system pursuant to the California Indeterminate Sentence Law.¹ Petitioner recited that he was convicted in 1952 on two counts of first-degree robbery and was given consecutive sentences of not less than five years each, with no maximum prescribed by law. California law provides that where no maximum term is set, the punishment shall be life imprisonment subject to the power of the California Adult Authority to "determine and redetermine" the length of time that a prisoner shall be required to serve. Cal. Penal Code §§ 671 (West 1955), 1168, 3020 (West 1956).

Petitioner asserted that in June 1961 he appeared before the Adult Authority for parole consideration, as he had done on a yearly basis during his confinement. According to petitioner, during that appearance the members of the Authority evinced an intention to extend his term beyond March 1962, the date that had been tentatively set for his discharge, solely because petitioner

¹ See Cal. Penal Code § 1168 (West 1956) and provisions there listed.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

P. 2

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

SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 40.—OCTOBER TERM, 1969

Circulated:
DEC 1 1969
Recirculated:

James Conway, Petitioner, } On Writ of Certiorari to the
v. } United States Court of
California Adult Authority } Appeals for the Ninth
et al. } Circuit.

[December —, 1969]

PER CURIAM.

The petition for habeas corpus in this case, which was filed in the District Court for the Northern District of California and which was prepared by petitioner *pro se*, attacked the constitutionality of petitioner's confinement in the state prison system pursuant to the California Indeterminate Sentence Law.¹ Petitioner recited that he was convicted in 1952 on two counts of first-degree robbery and was given consecutive sentences of not less than five years each, with no maximum prescribed by law. California law provides that where no maximum term is set, the punishment shall be life imprisonment subject to the power of the California Adult Authority to "determine and redetermine" the length of time that a prisoner shall be required to serve. Cal. Penal Code §§ 671 (West 1955), 1168, 3020 (West 1956).

Petitioner asserted that in June 1961 he appeared before the Adult Authority for parole consideration, as he had done on a yearly basis during his confinement. According to petitioner, during that appearance the members of the Authority evinced an intention to extend his term beyond March 1962, the date that had been tentatively set for his discharge, solely because petitioner

¹ See Cal. Penal Code § 1168 (West 1956) and provisions there listed.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

December 2, 1969

Re: No. 40 - Conway v. California Adult
Authority

Dear Chief:

Anticipating that this case will come down next Monday, I attach, as you requested, a proposed form of oral announcement for your use.

Sincerely,

JMH

The Chief Justice

No. 40 - Conway v. California Adult Authority

Proposed Oral Announcement

I am authorized to announce the per curiam opinion of the Court in No. 40, Conway v. California Adult Authority.

The case involves the propriety of the lower courts' denial of petitioner's application for a writ of habeas corpus. On the facts stated by petitioner in his petition for certiorari, it appeared that the California prison authorities had increased the length of his sentence for robbery solely because petitioner had refused to admit to them his guilt of the crime of which he had been convicted. We granted certiorari to consider whether such action on the part of the prison authorities infringed petitioner's privilege against compulsory self-incrimination.

It was revealed in the briefs on the merits, however, that the underlying facts were not as petitioner had represented them to be in his petition for certiorari, in that at least one factor in the redetermination of petitioner's sentence had been his violation of prison rules by fighting with another prisoner.

In this state of affairs, more fully elaborated in the per curiam opinion filed today, we dismiss the writ of certiorari as improvidently granted.

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

CHAMBERS OF
~~JUSTICE~~ WM. J. BRENNAN, JR.

November 28, 1969

RE: No. 40 - Conway v. California Adult
Authority

Dear John:

I agree with your Per Curiam in the
above case.

Sincerely,



W. J. B. Jr.

Mr. Justice Harlan

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 28, 1969

No. 40 - Conway v. Adult Authority

Dear John,

Upon the assumption that you will be willing to insert the word "compulsory" before "self-" in the third line from the bottom on page 2, I am glad to join the Per Curiam you have prepared in this case.

Sincerely yours,

P.S.

Mr. Justice Harlan

Copies to the Conference

January 29, 1969

Mr. Justice Harlan
U.S. Supreme Court Building
Washington, D.C.

Dear John:

Please join me

pleasantly

and

Mr. Justice Harlan

cc: Conference

