The Burger Court Opinion Writing Database

North Carolina v. Alford

400 U.S. 25 (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. 50 - North Carolina v. Alford

Dear Byron:

Please join me.

W.E.B.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

March 30, 1970

Re: No. 50 - North Carolina v. Alford

MEMORANDUM TO THE CONFERENCE:

I believe we agreed, but in any event I feel strongly, that North Carolina v. Alford which is now 4-4 should be set for reargument before nine members.

W.E.B.

SUPREME COURT OF THE UNITED STATES

No. 50.—October Term, 1969

North Carolina, Appellant, v. Henry C. Alford. | On Appeal from the United States Court of Appeals for the Fourth Circuit.

[March —, 1970]

Mr. Justice Douglas, dissenting.

We have here a guilty plea entered by a man who claimed from beginning to end that he was innocent; that is to say, that he did not kill the man as charged.

The Court of Appeals said:

> "The record is uncontradicted that from the time that petitioner entered his plea he professed his innocence of any homicide. No court has ever found that he pleaded guilty other than to avoid possible imposition of the death penalty. During the course of his first appearance before the court, petitioner stated:
>
> "'. . . I pleaded guilty on second degree murder because they said there is too much evidence, but I ain't shot no man, but I take the fault for the other man. We never had an argument in our life and I just pleaded guilty because they said if I didn't they would gas me for it, and that is all.'" 405 F. 2d 340, 348.

There is no denial of those basic facts and basic fears. The plea of guilty was plainly involuntary, as the Court of Appeals held.

The plea reflects the gnawing fear that confrontation does not result in justice even in the courts.

The voices of despair come from the minorities in our midst, whether racial, religious, or ideological. Perhaps they are misguided. But the scales have often been

Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas
Mr. Justice Marshall

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

Circulated: 3/16/70

Recirculated: 3/16/70

No. 50.—October Term, 1969

North Carolina, Appellant, *v.* Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.

[March —, 1970]

Mr. Justice Douglas, dissenting.

We have here a guilty plea entered by a man who is a Black and who claimed from beginning to end that he was innocent; that is to say, that he did not kill the man as charged.

The Court of Appeals said:

> "The record is uncontradicted that from the time that petitioner entered his plea he professed his innocence of any homicide. No court has ever found that he pleaded guilty other than to avoid possible imposition of the death penalty. During the course of his first appearance before the court, petitioner stated:
>
> "'. . . I pleaded guilty on second degree murder because they said there is too much evidence, but I ain't shot no man, but I take the fault for the other man. We never had an argument in our life and I just pleaded guilty because they said if I didn't they would gas me for it, and that is all.'" 405 F. 2d 340, 348.

There is no denial of those basic facts and basic fears. The plea of guilty was plainly involuntary, as the Court of Appeals held. We should remember that, "A plea of guilty is more than a confession which admits that the accused did various acts; it is itself a conviction;

SUPREME COURT OF THE UNITED STATES

No. 50.—October Term, 1969

North Carolina, Appellant.	On Appeal from the United States Court of Appeals for the Fourth Circuit.
v.	
Henry C. Alford.	

[March —, 1970]

Mr. Justice Douglas, dissenting.

We have here a guilty plea entered by a man who is a Black and who claimed from beginning to end that he was innocent;[1] that is to say, that he did not kill the man as charged.

The Court of Appeals said:

> "The record is uncontradicted that from the time that petitioner entered his plea he professed his innocence of any homicide. No court has ever found that he pleaded guilty other than to avoid possible imposition of the death penalty. During the course of his first appearance before the court, petitioner stated:
>
> "'. . . I pleaded guilty on second degree murder because they said there is too much evidence, but I ain't shot no man, but I take the fault for the other man. We never had an argument in our life and I just pleaded guilty because they said if I didn't they would gas me for it, and that is all.'" 405 F. 2d 340, 348.

There is no denial of those basic facts and basic fears. The plea of guilty was plainly involuntary, as the Court of Appeals held. We should remember that, "A plea

[1] A claim that he did not commit the crime would be quite different. A man who fired the shot allegedly in self-defense and pleads guilty, obviously does not have the same footing when he says he was innocent.

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

March 24, 1970

Dear Bill:

In No. 50 - North Carolina v. Alford; No. 268 - Parker v. North Carolina; No. 270 - Brady v. United States, please note that I join your fine dissenting opinion.

William O. Douglas

Mr. Justice Brennan

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

CHAMBERS OF
JUSTICE JOHN M. HARLAN

March 9, 1970

Re: No. 50 - North Carolina v. Alford
No. 268 - Parker v. North Carolina
No. 270 - Brady v. United States

Dear Byron:

I join your opinion in each of these cases. Depending upon what is written in No. 153, McMann v. Richardson, I may want to supplement what you have written with a few additional observations. But maybe not.

Sincerely,

J. M. H.

Mr. Justice White

CC: The Conference

SUPREME COURT OF THE UNITED STATES

Nos. 50, 268, AND 270.—OCTOBER TERM, 1969

North Carolina, Appellant, v. Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.
Charles Lee Parker, Petitioner, v. State of North Carolina.	On Writ of Certiorari to the Court of Appeals of North Carolina.
Robert M. Brady, Petitioner, v. United States.	On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit.

[March —, 1970]

MR. JUSTICE BRENNAN, dissenting in Nos. 50 and 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. We are confronted, in these cases, with three defendants [1] who claim that they were the victims of the very constitutional vices which we condemned in *Jackson*. Notwithstanding the persuasiveness of the various claims, today the Court paradoxically holds that each of these defendants must be

[1] The defendants in the respective trial courts are now the appellee in No. 50, *North Carolina* v. *Alford*, and petitioners in No. 268, *Parker* v. *North Carolina*, and No. 270, *Brady* v. *United States*.

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

SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

Circulated: 3-24-70

Recirculated:

Nos. 50, 268, AND 270.—OCTOBER TERM, 1969

North Carolina, Appellant, v. Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.
Charles Lee Parker, Petitioner, v. State of North Carolina.	On Writ of Certiorari to the Court of Appeals of North Carolina.
Robert M. Brady, Petitioner, v. United States.	On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit.

[March —, 1970]

MR. JUSTICE BRENNAN, dissenting in Nos. 50 and 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. We are confronted, in these cases, with three defendants [1] who claim that they were the victims of the very vices we condemned in *Jackson*. Notwithstanding the persuasiveness of the various claims, today the Court paradoxically holds that each of these defendants must be denied relief even if his allega-

[1] The defendants in the respective trial courts are now the appellee in No. 50, *North Carolina* v. *Alford*, and petitioners in No. 268, *Parker* v. *North Carolina*, and No. 270, *Brady* v. *United States*.

pp. 1, 4, 5, 6, 20
Stylistic changes throughout
3

SUPREME COURT OF THE UNITED STATES

Nos. 50, 268, AND 270.—OCTOBER TERM, 1969

North Carolina, Appellant, 50 v. Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.
Charles Lee Parker, Petitioner, 268 v. State of North Carolina.	On Writ of Certiorari to the Court of Appeals of North Carolina.
Robert M. Brady, Petitioner, 270 v. United States.	On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit.

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

From: Brennan, J.

Circulated: _____

Recirculated: 3-25-70

[March —, 1970]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting in Nos. 50 and 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. We are confronted, in these cases, with three defendants[1] who claim that they were the victims of the very vices we condemned in *Jackson*. Notwithstanding the persuasiveness of the various

[1] The defendants in the respective trial courts are now the appellee in No. 50, *North Carolina* v. *Alford*, and petitioners in No. 268, *Parker* v. *North Carolina*, and No. 270, *Brady* v. *United States*.

SUPREME COURT OF THE UNITED STATES

No. 50.—October Term, 1969

North Carolina, Appellant, *v.* Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.

[March —, 1970]

Mr. Justice Stewart, dissenting.

The respondent was indicted by a North Carolina grand jury for first degree murder. Under the state law then in effect, a defendant so charged could plead not guilty and face a jury trial at which a guilty verdict would automatically result in a death sentence unless the jury recommended life imprisonment. Or the defendant could plead guilty and receive a mandatory life sentence.* The respondent pleaded guilty to a charge of second degree murder and was sentenced to 30 years in prison.

At the plea proceeding the respondent said, "I pleaded guilty on second degree murder because they said there is too much evidence, but I ain't shot no man, but I take the fault for the other man. We never had an argument in our life and I just pleaded guilty because they said if I didn't they would gas me for it, and that is all." There then ensued a colloquy between the respondent and his appointed counsel:

> "Q. [Y]ou authorized me to tender a plea of guilty to second degree murder before the court?
> "A. Yes, sir.
> "Q. And in doing that, . . . you have again affirmed your decision on that point?

*N. C. Gen. Stat. § 15–162.1 (1965), repealed eff. March 25, 1969, N. C. Sess. Laws, c. 117.

SUPREME COURT OF THE UNITED STATES

No. 50.—October Term, 1969

North Carolina, Appellant, v. Henry C. Alford. | On Appeal from the United States Court of Appeals for the Fourth Circuit.

[March —, 1970]

Mr. Justice White delivered the opinion of the Court.

On December 2, 1963, Alford was indicted for first-degree murder, a capital offense under North Carolina law.[1] The court appointed an attorney to represent

[1] Under North Carolina law, first-degree murder is punished with death unless the jury recommends that the punishment shall be life imprisonment:

"A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, burglary or other felony, shall be deemed to be murder in the first degree and shall be punished with death: Provided, if at the time of rendering its verdict in open court, the jury shall so recommend, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury. All other kinds of murder shall be deemed murder in the second degree, and shall be punished with imprisonment of not less than two nor more than thirty years in the State's prison." N. C. Gen. Stat. § 14–17 (1953).

At the time Alford pleaded guilty, North Carolina law provided that if a guilty plea to a charge of first-degree murder was accepted by the prosecution and the court, the penalty would be life imprisonment rather than death. The provision permitting guilty pleas in capital cases was repealed in 1969. See *Parker* v. *North Carolina*, *ante*, at — n. 2. Though under present North Carolina law it is

pp 2, 8, 9

Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Fortas
Mr. Justice Marshall

From: White, J.

Circulated: _____

Recirculated: 2-28-70

SUPREME COURT OF THE UNITED STATES

No. 50.—October Term, 1969

North Carolina, Appellant, v. Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.

[March —, 1970]

Mr. Justice White delivered the opinion of the Court.

On December 2, 1963, Alford was indicted for first-degree murder, a capital offense under North Carolina law.[1] The court appointed an attorney to represent

[1] Under North Carolina law, first-degree murder is punished with death unless the jury recommends that the punishment shall be life imprisonment:

"A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, burglary or other felony, shall be deemed to be murder in the first degree and shall be punished with death: Provided, if at the time of rendering its verdict in open court, the jury shall so recommend, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury. All other kinds of murder shall be deemed murder in the second degree, and shall be punished with imprisonment of not less than two nor more than thirty years in the State's prison." N. C. Gen. Stat. § 14–17 (1953).

At the time Alford pleaded guilty, North Carolina law provided that if a guilty plea to a charge of first-degree murder was accepted by the prosecution and the court, the penalty would be life imprisonment rather than death. The provision permitting guilty pleas in capital cases was repealed in 1969. See *Parker* v. *North Carolina*, *ante*, at — n. 2. Though under present North Carolina law it is

p. 9

SUPREME COURT OF THE UNITED STATES

No. 50.—October Term, 1969

North Carolina, Appellant, v. Henry C. Alford.	On Appeal from the United States Court of Appeals for the Fourth Circuit.

[March —, 1970]

Mr. Justice White delivered the opinion of the Court.

On December 2, 1963, Alford was indicted for first-degree murder, a capital offense under North Carolina law.[1] The court appointed an attorney to represent

[1] Under North Carolina law, first-degree murder is punished with death unless the jury recommends that the punishment shall be life imprisonment:

"A murder which shall be perpetrated by means of poison, lying in wait, imprisonment, starving, torture, or by any other kind of willful, deliberate and premeditated killing, or which shall be committed in the perpetration or attempt to perpetrate any arson, rape, robbery, burglary or other felony, shall be deemed to be murder in the first degree and shall be punished with death: Provided, if at the time of rendering its verdict in open court, the jury shall so recommend, the punishment shall be imprisonment for life in the State's prison, and the court shall so instruct the jury. All other kinds of murder shall be deemed murder in the second degree, and shall be punished with imprisonment of not less than two nor more than thirty years in the State's prison." N. C. Gen. Stat. § 14–17 (1953).

At the time Alford pleaded guilty, North Carolina law provided that if a guilty plea to a charge of first-degree murder was accepted by the prosecution and the court, the penalty would be life imprisonment rather than death. The provision permitting guilty pleas in capital cases was repealed in 1969. See *Parker* v. *North Carolina*, *ante*, at — n. 2. Though under present North Carolina law it is

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 24, 1970

Re: Nos. 50, 268, and 270 - North Carolina v. Alford, etc.

Dear Bill:

Please join me.

Sincerely,

T.M.

Mr. Justice Brennan

cc: The Conference