

# The Burger Court Opinion Writing Database

## *Ginzburg v. Goldwater*

396 U.S. 1049 (1970)

Paul J. Wahlbeck, George Washington University

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# SUPREME COURT OF THE UNITED STATES

October Term, 1969

RALPH GINZBURG AND FACT MAGAZINE,  
INC. v. BARRY M. GOLDWATER

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

No. 687. Decided January —, 1970

MR. JUSTICE BLACK, dissenting.

Shortly before the 1964 Presidential election, Fact magazine published an issue entitled "The Unconscious of a Conservative: A Special Issue on the Mind of Barry Goldwater." The thrust of the two main articles in this issue of Fact was that Senator Barry Goldwater, the 1964 Republican nominee for the Presidency, had a severely paranoid personality and was psychologically unfit for the high office to which he aspired. The articles in the magazine attempted to support the thesis that Senator Goldwater was mentally ill by citing allegedly factual incidents from his public and private life and by reporting the results of a "poll" of 12,356 psychiatrists, together with a "sampling" of the comments made by the 2,417 psychiatrists who responded to the poll questionnaire which the magazine mailed out. Shortly after the publication of the "special Goldwater issue," Senator Goldwater commenced this libel action for damages against Fact Magazine, Inc., Warren Boroson, the named author of one of the articles, and Ralph Ginzburg, the editor and publisher of Fact. The suit was brought in the United States District Court for the Southern District of New York on the basis of diversity of citizenship. After 15 days of trial, the jury returned a verdict against each of the defendants. Although the jury awarded Goldwater only \$1.00 in compensatory damages against all three defendants, it went on to

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To: The Chief Justice  
✓ 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: Black, J. JAN 20 1970

October Term, 1969

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