

# The Burger Court Opinion Writing Database

## *Vale v. Louisiana*

399 U.S. 30 (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 16, 1970

Re: No. 727 - Vale v. Louisiana

MEMORANDUM TO:

Justice Douglas

Since I will probably remain in my position to affirm in the above case it would be better if you would make the above assignment.

W. E. B.

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

CHAMBERS OF  
THE CHIEF JUSTICE

April 22, 1970

Re: No. 727 - Vale v. Louisiana

Dear Hugo:

My notes show you and I were for an affirmance  
in the above. If you write a dissent I shall very likely  
join you.

Regards,



W.E.B.

Mr. Justice Black

cc: The Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

May 12, 1970

Re: No. 727 - Vale v. Louisiana

Dear Hugo:

Join me in your dissent in the above.

A handwritten signature in dark ink, appearing to be 'W E B' followed by a stylized flourish.

W. E. B.

Mr. Justice Black

cc: The Conference

April 24, 1970

Dear Chief:

Re: No. 727 - Vale v. Louisiana

I hope to get to the printers tomorrow  
morning a dissenting opinion in the above case  
and to have it circulated on Monday.

Sincerely,

Hugo L. Black

Mr. Chief Justice Burger

# SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

Donald J. Vale, Appellant,  
v.  
State of Louisiana.

On Appeal From the Supreme Court of Louisiana

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

From: Black, J.

APR 27 1970

Circulated:

Recirculated:

[April —, 1970]

MR. JUSTICE BLACK, dissenting.

The Fourth Amendment to the United States Constitution prohibits only "unreasonable searches."\* A warrant has never been thought to be an absolute requirement for a constitutionally proper search. Searches, whether with or without a warrant, are to be judged by whether they are reasonable, and, as I said in *Preston v. United States*, 376 U. S. 364, 366-367 (1964), common sense dictates that reasonableness varies with the circumstances of the search. See, e. g., *Henry v. United States*, 361 U. S. 98 (1959); *Brinegar v. United States*, 338 U. S. 160 (1949). The Louisiana Supreme Court held not only that the police action here was reasonable, but that failure to conduct an immediate search would have been unreasonable. 252 La. 1056, 1070, 215 So. 2d 811, 816. With that view I am in complete agreement, for the following reasons.

The police, having warrants for Vale's arrest, were watching his mother's house from a short distance away. Not long after they began their vigil a car arrived, sounded its horn, and backed into a parking space near

\*The Fourth Amendment says:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

P-1

# SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

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

Donald J. Vale, Appellant,  
 v.  
 State of Louisiana.

On Appeal From the Supreme Court of Louisiana.

From: Black, J.

Circulated: MAY 13 1970  
 Recirculated:

[May —, 1970]

MR. JUSTICE BLACK, with whom THE CHIEF JUSTICE joins, dissenting.

The Fourth Amendment to the United States Constitution prohibits only "unreasonable searches."\* A warrant has never been thought to be an absolute requirement for a constitutionally proper search. Searches, whether with or without a warrant, are to be judged by whether they are reasonable, and, as I said, speaking for the Court in *Preston v. United States*, 376 U. S. 364, 366-367 (1964), common sense dictates that reasonableness varies with the circumstances of the search. See, e. g., *Henry v. United States*, 361 U. S. 98 (1959); *Brinegar v. United States*, 338 U. S. 160 (1949). The Louisiana Supreme Court held not only that the police action here was reasonable, but that failure to conduct an immediate search would have been unreasonable. 252 La. 1056, 1070, 215 So. 2d 811, 816. With that view I am in complete agreement, for the following reasons.

The police, having warrants for Vale's arrest, were watching his mother's house from a short distance away.

\*The Fourth Amendment says:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

March 17, 1970

Dear Chief:

I received your note of  
March sixteenth about No. 727 -  
Vale v. Louisiana.

I believe at the end of our  
Conference discussion of the case, I  
asked Potter Stewart if he would write  
it as he was the author of Shipley, and  
he agreed. So I think that that is the  
assignment.

William O. Douglas

The Chief Justice

CC: Mr. Justice Stewart



April 31, 1970

Re: No. 727 - Vale v. Louisiana

Dear Potter:

I agree with your opinion, both as originally  
and subsequently circulated.

Sincerely,

J. M. W.

Mr. Justice Stewart

U.S. Supreme Court

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.


April 20, 1970

RE: No. 727 - Vale v. Louisiana

Dear Potter:

I agree with your opinion in the  
above case.

Sincerely,

  
W.J.B. Jr.

Mr. Justice Stewart

cc: The Conference

*Page*

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

SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

From: Stewart, J.  
Circulated: **APR 17 1970**

Donald J. Vale, Appellant,  
v.  
State of Louisiana. } On Appeal From the Supreme Court of Louisiana.

[April —, 1970]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellant, Donald Vale, was convicted in a Louisiana court on a charge of possessing heroin and was sentenced as a multiple offender to 15 years' imprisonment at hard labor. The Louisiana Supreme Court affirmed the conviction, rejecting the claim that evidence introduced at the trial was the product of an unlawful search and seizure. 215 La. 1056, 215 So. 2d 811. We granted Vale's motion to proceed *in forma pauperis*, postponed consideration of the question of jurisdiction to the hearing of the case on the merits, and limited review to the search-and-seizure question. 396 U. S. 813.\*

The evidence adduced at the pretrial hearing on a motion to suppress showed that on April 24, 1967, officers

\*In his Notice of Appeal, Vale asserted that the Louisiana Supreme Court in affirming the conviction had relied upon a state statute, Article 225 of the Louisiana Code of Criminal Procedure (1967), which provides:

"A peace officer making an arrest shall take from the person arrested all weapons and incriminating articles which he may have about his person."

Although the state court referred to this statute in the course of its opinion, we do not understand its decision to be grounded on the statute. We therefore treat the appeal as a petition for certiorari, which is hereby granted. 28 U. S. C. § 2103.

STYLISTIC CHANGES THROUGHOUT.

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

2

SUPREME COURT OF THE UNITED STATES

From: Stewart, J.

No. 727.—OCTOBER TERM, 1969

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

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

APR 20 1970

Donald J. Vale, Appellant, }  
v. } On Appeal From the Su-  
State of Louisiana. } preme Court of Louisiana.

[April —, 1970]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellant, Donald Vale, was convicted in a Louisiana court on a charge of possessing heroin and was sentenced as a multiple offender to 15 years' imprisonment at hard labor. The Louisiana Supreme Court affirmed the conviction, rejecting the claim that evidence introduced at the trial was the product of an unlawful search and seizure. 252 La. 1056, 215 So. 2d 811. We granted Vale's motion to proceed *in forma pauperis*, postponed consideration of the question of jurisdiction to the hearing of the case on the merits, and limited review to the search-and-seizure question. 396 U. S. 813.\*

The evidence adduced at the pretrial hearing on a motion to suppress showed that on April 24, 1967, officers

\*In his Notice of Appeal, Vale asserted that the Louisiana Supreme Court in affirming the conviction had relied upon a state statute, Article 225 of the Louisiana Code of Criminal Procedure (1967), which provides in pertinent part:

"A peace officer making an arrest shall take from the person arrested all weapons and incriminating articles which he may have about his person."

Although the state court referred to this statute in the course of its opinion, we do not understand its decision to be grounded on the statute. We therefore treat the appeal as a petition for certiorari, which is hereby granted. 28 U. S. C. § 2103.

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

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

3

From: Stewart, J.

SUPREME COURT OF THE UNITED STATES

No. 727.—OCTOBER TERM, 1969

Received

JUN 17 1970

Donald J. Vale, Appellant,  
v.  
State of Louisiana. } On Appeal From the Supreme Court of Louisiana.

[April —, 1970]

MR. JUSTICE STEWART delivered the opinion of the Court.

The appellant, Donald Vale, was convicted in a Louisiana court on a charge of possessing heroin and was sentenced as a multiple offender to 15 years' imprisonment at hard labor. The Louisiana Supreme Court affirmed the conviction, rejecting the claim that evidence introduced at the trial was the product of an unlawful search and seizure. 252 La. 1056, 215 So. 2d 811. We granted Vale's motion to proceed *in forma pauperis*, postponed consideration of the question of jurisdiction to the hearing of the case on the merits, and limited review to the search-and-seizure question. 396 U. S. 813.\*

The evidence adduced at the pretrial hearing on a motion to suppress showed that on April 24, 1967, officers

\*In his Notice of Appeal, Vale asserted that the Louisiana Supreme Court in affirming the conviction had relied upon a state statute, Article 225 of the Louisiana Code of Criminal Procedure (1967), which provides in pertinent part:

"A peace officer making an arrest shall take from the person arrested all weapons and incriminating articles which he may have about his person."

Although the state court referred to this statute in the course of its opinion, we do not understand its decision to be grounded on the statute. We therefore treat the appeal as a petition for certiorari, which is hereby granted. 28 U. S. C. § 2103.

April 17, 1970

Re: Mo. 727 - Vale v. Louisiana

Dear Potter:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Stewart

cc: Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 21, 1970

Re: No. 727 - Donald J. Vale v. Louisiana

Dear Potter:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Stewart

cc: The Conference