The Burger Court Opinion Writing Database

Chambers v. Maroney

399 U.S. 42 (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

May 16, 1970

Re: No. 830 - Chambers v. Maroney

Dear Byron:

Join me in your opinion.

W.E.B.

Mr. Justice White

cc: The Conference

May 14, 1970

MEMORANDUM FOR THE CONFERENCE

I am agreeing to the following opinions:

No. 830- Chambers v. Maroney (White, J.)

No. 7 - Gunn, et al. v. University Committee, etc. (Stewart, J.)

Respectfully,

H. L. B.

June 24,1970

830

Dear Byron:

I agree with your suggestions concerning the cases that were held for Chambers, except that I would deny No. 1232 Misc., Kelley v. Arizona.

Sincerely,

H. L. B.

Mr. Justice White

cc: Members of the Conference

May 20, 1970

Re: No. 838 - Chambers v. Maroney

Dear Byron:

I have not yet completely come to rest on this case, but I thought I should let you know that at the present time I think I shall be writing separately.

Sincerely,

J.M.H.

Mr. Justice White

CC: The Conference

SUPREME COURT OF THE UNITED STATES

No. 830.—October Term, 1969

Frank Chambers, Petitioner, *v.* James F. Maroney, Superintendent, State Correctional Institution. | On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[June —, 1970]

Mr. Justice Harlan, concurring in part and dissenting in part.

I find myself in disagreement with the Court's disposition of this case in two respects.

I

I cannot join the Court's casual treatment of the issue that has been presented by both parties as the major issue in this case: petitioner's claim that he received ineffective assistance of counsel at his trial. As the Court acknowledges, petitioner met Mr. Tamburo, his trial counsel, for the first time en route to the courtroom on the morning of trial. Although a different Legal Aid Society attorney had represented petitioner at his first trial, apparently neither he nor anyone else from the society had conferred with petitioner in the interval between trials. Because the District Court did not hold an evidentiary hearing on the habeas petition, there is no indication in the record of the extent to which Mr. Tamburo may have consulted petitioner's previous attorney, the attorneys for the other defendants, or the files of the Legal Aid Society. What the record does disclose on this claim is essentially a combination of two factors: the entry of counsel into the case immediately

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

9.6,9

SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 830.—October Term, 1969

Circulated:

Recirculated: JUN 22 1970

Frank Chambers, Petitioner,
v.
James F. Maroney, Superintendent, State Correctional Institution.

On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[June 22, 1970]

Mr. Justice Harlan, concurring in part and dissenting in part.

I find myself in disagreement with the Court's disposition of this case in two respects.

I

I cannot join the Court's casual treatment of the issue that has been presented by both parties as the major issue in this case: petitioner's claim that he received ineffective assistance of counsel at his trial. As the Court acknowledges, petitioner met Mr. Tamburo, his trial counsel, for the first time en route to the courtroom on the morning of trial. Although a different Legal Aid Society attorney had represented petitioner at his first trial, apparently neither he nor anyone else from the society had conferred with petitioner in the interval between trials. Because the District Court did not hold an evidentiary hearing on the habeas petition, there is no indication in the record of the extent to which Mr. Tamburo may have consulted petitioner's previous attorney, the attorneys for the other defendants, or the files of the Legal Aid Society. What the record does disclose on this claim is essentially a combination of two factors: the entry of counsel into the case immediately

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 19, 1970

RE: No. 830 - Chambers v. Maroney

Dear Byron:

I was the other way but you have persuaded me. Please join me.

Sincerely,

W. J. B. Jr.

Mr. Justice White

cc: The Conference

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. 830.—October Term, 1969

From: Stewart, J.

Circulated: MAY 20 1970

Recirculated: _____

Frank Chambers, Petitioner, *v.* James F. Maroney, Superintendent, State Correctional Institution. | On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[May —, 1970]

Mr. Justice Stewart, concurring.

I adhere to the view that the admission at trial of evidence acquired in alleged violation of Fourth Amendment standards is not of itself sufficient ground for a ~~belated~~ collateral attack upon an otherwise valid criminal conviction, state or federal. See *Kaufman* v. *United States*, 394 U. S. 217, at 242 (dissenting opinion); *Harris* v. *Nelson*, 394 U. S. 286, at 307 (dissenting opinion). But until the Court adopts that view, I regard myself as obligated to consider the merits of the Fourth and Fourteenth Amendment claims in a case of this kind. Upon that premise I join the opinion and judgment of the Court.

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.

Circulated: 5-14-70

Recirculated:

SUPREME COURT OF THE UNITED STATES

No. 830.—October Term, 1969

Frank Chambers, Petitioner, *v.* James F. Maroney, Superintendent, State Correctional Institution. | On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[May —, 1970]

Mr. Justice White delivered the opinion of the Court.

The principal question in this case concerns the admissibility of evidence seized from an automobile, in which petitioner was riding at the time of his arrest, after the automobile was taken to the police station and was there thoroughly searched without a warrant. The Court of Appeals found no violation of petitioner's Fourth Amendment rights. We affirm.

I

During the night of May 20, 1963, a Gulf service station in North Braddock, Pennsylvania, was robbed by two men each of whom carried and displayed a gun. The robbers took the currency from the cash register; the operator, one Stephen Kovacich, was directed to place the coins in his right hand glove which was then taken by the robbers. Two teenagers, who had earlier noticed a blue station wagon circling the block in the vicinity of the Gulf station, then saw the station wagon speed away from a parking lot close to the Gulf station; about the same time, they learned that the Gulf station had been robbed. They reported to police, who arrived immediately, that four men were in the station wagon

pp 2, 4, 7, 9 – 12

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.

Circulated: _____

Recirculated: 5-18-70

SUPREME COURT OF THE UNITED STATES

No. 830.—October Term, 1969

Frank Chambers, Petitioner, *v.* James F. Maroney, Superintendent, State Correctional Institution. | On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[May —, 1970]

Mr. Justice White delivered the opinion of the Court.

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I

During the night of May 20, 1963, a Gulf service station in North Braddock, Pennsylvania, was robbed by two men each of whom carried and displayed a gun. The robbers took the currency from the cash register; the operator, one Stephen Kovacich, was directed to place the coins in his right hand glove which was then taken by the robbers. Two teenagers, who had earlier noticed a blue station wagon circling the block in the vicinity of the Gulf station, then saw the station wagon speed away from a parking lot close to the Gulf station; about the same time, they learned that the Gulf station had been robbed. They reported to police, who arrived immediately, that four men were in the station wagon

pp 1-3, 7-10, 12

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

From: White, J.

Circulated: _____

Recirculated: 6-18-70

SUPREME COURT OF THE UNITED STATES

No. 830.—October Term, 1969

Frank Chambers, Petitioner, *v.* James F. Maroney, Superintendent, State Correctional Institution. | On Writ of Certiorari to the United States Court of Appeals for the Third Circuit.

[June —, 1970]

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I

During the night of May 20, 1963, a Gulf service station in North Braddock, Pennsylvania, was robbed by two men each of whom carried and displayed a gun. The robbers took the currency from the cash register; the service station attendant, one Stephen Kovacich, was directed to place the coins in his right hand glove, which was then taken by the robbers. Two teenagers, who had earlier noticed a blue compact station wagon circling the block in the vicinity of the Gulf station, then saw the station wagon speed away from a parking lot close to the Gulf station; about the same time, they learned that the Gulf station had been robbed. They reported to police, who arrived immediately, that four men were in the sta-

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 24, 1970

MEMORANDUM FOR THE CONFERENCE

This memorandum deals with the cases which have been held for Chambers, No. 830.

No. 508, Hanna v. Illinois, is a direct appeal from the Illinois Supreme Court's affirmance of a conviction involving a car search at a police station thirty minutes after arrest. Relying on Dyke, the state court held that Preston did not invalidate the seizure where there was probable cause to make the search. In accordance with Chambers, I would deny.

No. 801, Perini v. Colosimo, opinion below at 415 F. 2d 804; No. 936, Crouse v. Wood, opinion below at 415 F. 2d 394; and No. 1195, Hocker v. Heffley, opinion below at 420 F. 2d 881. In each of these cases a state prisoner was successful in federal habeas corpus on grounds that the search of his car was invalid under Preston as not being coincidental with arrest in time or place. No consideration was given to probable cause to search, except in No. 936 where it was indicated that the existence of probable cause would not change the result. I would vacate and remand for reconsideration in the light of Chambers.

No. 1232 Misc., Kelley v. Arisona, opinion below at 454 P. 2d 563 (Ariz. 1969). Here the officer made a traffic violation stop and put petitioner in the police car while car ownership was being checked. When petitioner more than once disclaimed any knowledge of the contents of a paper sack which officers saw on the floor of petitioner's car, the sack was opened and marijuana discovered. The Arizona Supreme Court upheld the search and affirmed petitioner's conviction for possession of marijuana. It seems to me that what the officer did went beyond the search a Terry stop would authorize and it is doubtful that there was probable cause to search the car or the sack. I would vacate and remand for reconsideration in the light of Chambers or grant.