

# The Burger Court Opinion Writing Database

*James v. Valtierra*

402 U.S. 137 (1971)

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

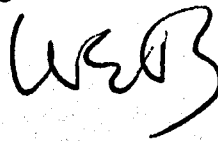
April 2, 1971

Re: No. 154 - James v. Valtierra  
No. 226 - Shaffer v. Valtierra

Dear Hugo:

Please join me.

Regards,



Mr. Justice Black

cc: The Conference

To: Mr. Justice Blackmun  
 Mr. Justice Brennan  
 Mr. Justice Chief Justice  
 Mr. Justice Harlan  
 Mr. Justice Marshall  
 Mr. Justice Stewart  
 Mr. Justice Sutherland  
 Mr. Justice Tamm  
 Mr. Justice White

From: Black, J.  
 MAR 25 1971

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Circulated: [redacted]  
 Recirculated: [redacted]

Nos. 154 & 226.—OCTOBER TERM, 1970

Ronald James et al.,	} On Appeals From the United
Appellants,	
154 v.	
Anita Valtierra et al.	
Virginia C. Shaffer,	} States District Court for the
Appellant,	
226 v.	
Anita Valtierra et al.	
	Northern District of California.

[March —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

These cases raise but a single issue. It grows out of the United States Housing Act of 1937, 42 U. S. C. §§ 1401-1430, which established a federal housing agency authorized to make loans and grants to state agencies for slum clearance and low-rent housing projects. In response, the California Legislature created in each county and city a public housing authority to take advantage of the financing made available by the Federal Housing Act. See California Health and Safety Code § 34240. At the time the federal legislation was passed the California Constitution had for many years reserved to the State's people the power to initiate legislation and to reject or approve by referendum any Act passed by the state legislature. California Const. Art. IV, § 1. The same section reserved to the electors of counties and cities the power of initiative and referendum over acts of local government bodies. In 1950, however, the State Supreme Court held that local authorities' decisions on

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

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

3rd DRAFT

From: Mr. J. J.

**SUPREME COURT OF THE UNITED STATES**

Circulated: \_\_\_\_\_  
 Date: MAY 28 1971

Nos. 154 & 226.—OCTOBER TERM, 1970

Ronald James et al.,	} On Appeals From the United
Appellants,	
154 v.	
Anita Valtierra et al.	
Virginia C. Shaffer,	
Appellant,	States District Court for the
226 v.	Northern District of California.
Anita Valtierra et al.	

[April —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

These cases raise but a single issue. It grows out of the United States Housing Act of 1937, 42 U. S. C. §§ 1401-1430, which established a federal housing agency authorized to make loans and grants to state agencies for slum clearance and low-rent housing projects. In response, the California Legislature created in each county and city a public housing authority to take advantage of the financing made available by the Federal Housing Act. See California Health and Safety Code § 34240. At the time the federal legislation was passed the California Constitution had for many years reserved to the State's people the power to initiate legislation and to reject or approve by referendum any Act passed by the state legislature. California Const. Art. IV, § 1. The same section reserved to the electors of counties and cities the power of initiative and referendum over acts of local government bodies. In 1950, however, the State Supreme Court held that local authorities' decisions on

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

*St. Glaston  
 changes*

4th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 154 & 226.—OCTOBER TERM, 1970

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

Circulated: **APR 24 1971**

Ronald James et al.,  
 Appellants,

154 v.

Anita Valtierra et al.,  
 Appellees.

Virginia C. Shaffer,  
 Appellant,

226 v.

Anita Valtierra et al.,  
 Appellees.

On Appeals From the United  
 States District Court for the  
 Northern District of California.

*April*  
 [May —, 1971]

MR. JUSTICE BLACK delivered the opinion of the Court.

These cases raise but a single issue. It grows out of the United States Housing Act of 1937, 42 U. S. C. § 1401 *et seq.*, which established a federal housing agency authorized to make loans and grants to state agencies for slum clearance and low-rent housing projects. In response, the California Legislature created in each county and city a public housing authority to take advantage of the financing made available by the Federal Housing Act. See California Health and Safety Code § 34240. At the time the federal legislation was passed the California Constitution had for many years reserved to the State's people the power to initiate legislation and to reject or approve by referendum any Act passed by the state legislature. California Const. Art. IV, § 1. The same section reserved to the electors of counties and cities the power of initiative and referendum over acts

APR 18 1971

Re: Nos. 154 and 226 - James, Shaffer v.  
Valtierra

---

Dear Hugo:

I agree with and am glad to join your  
opinion.

Sincerely,

J. M. H.

Mr. Justice Black

CC: The Conference

GRJ

TM

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 12, 1971

RE: Nos. 154 & 226 -- James v. Valtierra

Dear Thurgood:

Please join me in your dissent in the  
above.

Sincerely,



W.J.B.Jr.

Mr. Justice Marshall

cd: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

March 30, 1971

<sup>4</sup>  
Nos. 155 & 226, James v. Valtierra

Dear Hugo,

I am glad to join your opinion for the  
Court in these cases.

Sincerely yours,

P.S.  
✓

Mr. Justice Black

Copies to the Conference



March 30, 1971

Re: Nos. 154 & 226 - James V.  
Valtierra

---

Dear Hugo:

Please join me.

Sincerely,

B.R.W.

Mr. Justice Black

cc: Conference

Agree sent - 4/12/71

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

Nos. 154 & 226.—OCTOBER TERM, 1970

Circulated: APR 9 - 1971

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

Ronald James et al.,  
Appellants,

154 v.

Anita Valtierra et al.

Virginia C. Shaffer,  
Appellant,

226 v.

Anita Valtierra et al.

On Appeals From the United  
States District Court for the  
Northern District of California.

[April —, 1971]

MR. JUSTICE MARSHALL, dissenting.

By its very terms, the mandatory prior referendum provision of Article 34 applies solely to

“any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise.”

Persons of low income are defined as

“persons or families who lack the amount of income which is necessary . . . to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.”

The article explicitly singles out low-income persons to bear its burden. Publicly assisted housing developments designed to accommodate the aged, veterans, persons of moderate income, or any class of citizens other than the poor, need not be approved by prior referenda.

P, 2  
 To: The Chief Justice  
 Mr. Justice Black  
 Mr. Justice Douglas  
 Mr. Justice Harlan  
 7 Mr. Justice Brennan  
 Mr. Justice Stewart  
 Mr. Justice White  
 Mr. Justice Blackmun

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 154 & 226.—OCTOBER TERM, 1970

From: Marshall, J.

Ronald James et al.,  
 Appellants,  
 154 v.  
 Anita Valtierra et al.  
 Virginia C. Shaffer,  
 Appellant,  
 226 v.  
 Anita Valtierra et al.

On Appeals From the United  
 States District Court for the  
 Northern District of California.

Circulated: \_\_\_\_\_  
 Recirculated: APR 21 1971

[April —, 1971]

MR. JUSTICE MARSHALL, whom MR. JUSTICE BRENNAN  
 and MR. JUSTICE BLACKMUN join, dissenting.

By its very terms, the mandatory prior referendum pro-  
 vision of Article 34 applies solely to

“any development composed of urban or rural dwell-  
 ings, apartments or other living accommodations for  
 persons of low income, financed in whole or in part  
 by the Federal Government or a state public body  
 or to which the Federal Government or a state pub-  
 lic body extends assistance by supplying all or part  
 of the labor, by guaranteeing the payment of liens,  
 or otherwise.”

Persons of low income are defined as

“persons or families who lack the amount of income  
 which is necessary . . . to enable them, without fi-  
 nancial assistance, to live in decent, safe and sanitary  
 dwellings, without overcrowding.”

The article explicitly singles out low-income persons to  
 bear its burden. Publicly assisted housing developments  
 designed to accommodate the aged, veterans, state em-

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 Stewart  
Mr. Justice White  
Mr. Justice Blackmun

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 154 & 226.—OCTOBER TERM, 1970

From: Marshall, J.

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

Recirculated: APR 22 1971

Ronald James et al., Appellants, 154 v. Anita Valtierra et al.	} On Appeals From the United States District Court for the Northern District of California.
Virginia C. Shaffer, Appellant, 226 v. Anita Valtierra et al.	

[April —, 1971]

MR. JUSTICE MARSHALL, whom MR. JUSTICE BRENNAN and MR. JUSTICE BLACKMUN join, dissenting.

By its very terms, the mandatory prior referendum provision of Article 34 applies solely to

“any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise.”

Persons of low income are defined as

“persons or families who lack the amount of income which is necessary . . . to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.”

The article explicitly singles out low-income persons to bear its burden. Publicly assisted housing developments designed to accommodate the aged, veterans, state em-

April 15, 1971

Re: No. 154 - James v. Valtierra  
No. 226 - Shaffer v. Valtierra

Dear Thurgood:

Please join me in your dissent for these  
cases.

Sincerely,

H.A.B.

Mr. Justice Marshall

cc: The Conference