

The Burger Court Opinion Writing Database

McDaniel v. Barresi
402 U.S. 39 (1971)

Paul J. Wahlbeck, George Washington University
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TM 281

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

1st DRAFT

From: The Chief Justice

SUPREME COURT OF THE UNITED STATES

Circulated: APR 2 1971

No. 420.—OCTOBER TERM, 1970

Recirculated: _____

Charles McDaniel, Superintendent of Schools, et al.,
Petitioners, } On Writ of Certiorari to
v. the Supreme Court of
Georgia.
Joseph Barresi, Jr., et al.

[April —, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to review a state court order enjoining the operation of a school desegregation plan. The action was brought in the Superior Court of Clarke County, Georgia, by parents of children attending public elementary schools in that county. Named as defendants were the Superintendent of Education and members of the Clarke County Board of Education. The trial court denied respondents' request for an injunction, but on appeal the Supreme Court of Georgia reversed, 226 Ga. 456, 175 S. E. 2d 649 (1970). This Court then granted certiorari, 400 U. S. 804 (1970).

Beginning in 1963, the Clarke County Board of Education began a voluntary program to desegregate its public schools. The student-assignment plan presently at issue, involving only elementary schools, has been in effect since the start of the 1969 academic year. The plan, adopted by the Board of Education and approved by the Department of Health, Education, and Welfare,¹

¹ It may well be that the Board of Education adopted the present student-assignment plan because of urgings of federal officials and fear of losing federal financial assistance. The state court, however, made no findings on these matters. No federal officials are parties in this case.

TM 281

Supreme Court of the United States
Washington, D. C. 20543CHAMBERS OF
THE CHIEF JUSTICE

April 14, 1971

No. 420 - McDaniel v. Barresi

Dear Hugo:

Re your memo of April 5 I have reviewed the language problem you raised and your suggestion that the second sentence, final paragraph, page 3 of the above was inconsistent with the language on page 12 of Swann.

I believe this is cleared up by the subsequent deletion from Swann of the language to eliminate the phrase "to expand and." This elimination was in compliance with your request. As the two opinions now stand I believe they are entirely consistent.

Regards,

Mr. Justice Black

cc: The Conference

April 3, 1971

Dear Chief:

In No. 420 - McDaniel v. Barresi,
please join me.

W. O. D.

The Chief Justice

WD
AL

TM 281

April 6, 1971

Re: No. 420 - McDonald v. Barrett

Dear Chief:

I agree with and am glad to join your
opinion in this case.

Sincerely,

J. M. H.

The Chief Justice

cc: The Cadares

DR

Supreme Court of the United States
Washington, D. C. 20543CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 7, 1971

RE: No. 420 - McDaniel v. Barresi

Dear Chief:

Please join me.

Sincerely,

W. J. B. Jr.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 5, 1971

No. 420 - McDaniel v. Barresi

Dear Chief,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 6, 1971

Re: No. 420 - McDaniel v. Barresi

Dear Chief:

Please join me.

Sincerely,

Byron

The Chief Justice

Copies to Conference

Supreme Court of the United States
Washington, D. C. 20543CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 7, 1971

Re: No. 420 - McDaniel v. Barresi

Dear Chief:

Please join me.

Sincerely,


T.M.

The Chief Justice

cc: The Conference

TM 281

April 6, 1971

Re: No. 420 - McDaniel v. Barrett

Dear Chief:

Please let me,

Sincerely,

H. A. B.

The Chief Justice

cc: The Conference

BR J S