

The Burger Court Opinion Writing Database

North Carolina State Board of Education v Swann

402 U.S. 43 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

Recirculated: _____

No. 498.—OCTOBER TERM, 1970

North Carolina State Board
of Education et al.,
Appellants,
v.
James E. Swann et al.

On Appeal from the United
States District Court for
the Western District of
North Carolina.

[April —, 1971]

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

This case is here on direct appeal pursuant to 28 U. S. C. § 1253 from the judgment of a three-judge court in the United States District Court for the Western District of North Carolina. The District Court declared unconstitutional a portion of the North Carolina General Statutes known as the Anti-Busing Law,¹ and granted an injunction against its enforcement.² The proceeding before the three-judge court was an ancillary proceeding connected with the school desegregation case heretofore discussed, *Swann v. Charlotte-Mecklenburg, supra*, p. —.

¹ So far as here relevant, North Carolina General Statute § 115-176.1 reads as follows:

"No student shall be assigned or compelled to attend any school on account of race, creed, color or national origin, or for the purpose of creating a balance or ratio of race, religion or national origin. Involuntary busing of students in contravention of this Article is prohibited, and public funds shall not be used for any such busing."

² 312 F. Supp 503 (1970). The opinion as printed grants only declaratory relief. However the District Court amended its original opinion by withdrawing Part V and entering an order dated June 22, 1970, which enjoined all parties "from enforcing, or seeking the enforcement of," the portion of the statute found unconstitutional.

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✓ M

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

April 5, 1971

Dear Chief,

Re: No. 498- N. C. State Bd.
of Education, et al. v. Swann.

I agree to your opinion in
the above case.

Sincerely,

HLB
H. L. B.

The Chief Justice

cc: Members of the Conference

April 3, 1971

Dear Chief:

In No. 498 - Board of Education
v. Swann, please join me.

W. O. D.

The Chief Justice

WJ
Adm

April 6, 1971

Re: No. 498 - North Carolina v. Swann

Dear Chief:

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

Sincerely,

J. M. H.

The Chief Justice

CC: The Conference

W *W*

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 7, 1971

RE: No. 498 - North Carolina State Board
v. Swann.

Dear Chief:

Please join me.

Sincerely,

W. J. B. Jr.
W. J. B. Jr.

The Chief Justice

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 5, 1971

No. 498 - North Carolina State Board of
Education v. James E. Swann

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

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OFFICE OF THE CLERK OF THE SUPREME COURT


CHAMBERS OF
JUSTICE BYRON R. WHITE

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

April 6, 1971

Re: No. 498 - North Carolina State
Bd of Education v. Swann

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 7, 1971

Re: No. 498 - North Carolina State Board of
Education v. Swann

Dear Chief:

Please join me

Sincerely,


T.M.

The Chief Justice

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

SSSRENOU OF ADVANCE

April 6, 1971

Re: No. 498 - North Carolina State Board
of Education v. Swann

Dear Chief:

Please join me.

Sincerely,

H. A. B.

The Chief Justice

cc: The Conference