

# The Burger Court Opinion Writing Database

*Hill v. California*

401 U.S. 797 (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

February 8, 1971

Re: No. 51 - Hill v. California

Dear Byron:

Please join me in your opinion for the  
Court.

Regards,

*W.E.B*  
WEB

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HUGO L. BLACK

January 13, 1971

Dear Byron:

Re: No. 51 - Hill v. State of Calif.

Please note that I concur in the  
result.

Sincerely,



Hugo  
Black

Mr. Justice White

cc: Members of the Conference

March 17, 1971

Dear Byron:

In No. 51 - Hill v. California,  
kindly note that I took no part in  
the consideration or the decision  
of this case.

W. O. D.

Mr. Justice White

WWD  
odm

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

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 51.—OCTOBER TERM, 1970

Circulated: JAN 27 1971

Recirculated.

Archie William Hill, Jr., Petitioner, v. State of California. } On Writ of Certiorari to the Supreme Court of California.

[February —, 1971]

MR. JUSTICE HARLAN, concurring in part and dissenting in part.

I agree with the Court's opinion except for its conclusion that the *Chimel* case is not to be applied to this one.

Two Terms ago, in *Chimel v. California*, 395 U. S. 752 (1969), we held that a search without a warrant, but incident to a lawful arrest, must be narrowly confined in scope if it is to pass constitutional muster. In such circumstances, we said:

"There is ample justification . . . for a search of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

"There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs—or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself. Such searches, in the absence of well-recognized exceptions, may be made only under the authority of a search warrant. The 'adherence to judicial processes' mandated by the Fourth Amendment requires no less." 395 U. S., at 763 (footnote omitted).

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES Mr. Justice Harlan, J.

No. 51.—OCTOBER TERM, 1970

Circulated:

Recirculated FEB 3 1971

Archie William Hill, Jr.,  
Petitioner,  
v.  
State of California. } On Writ of Certiorari to the  
Supreme Court of California.

[February —, 1971]

MR. JUSTICE HARLAN, concurring in part and dissenting in part.

I agree with the Court's opinion except for its conclusion that the *Chimel* case is not to be applied to this one.

Two Terms ago, in *Chimel v. California*, 395 U. S. 752 (1969), we held that a search without a warrant, but incident to a lawful arrest, must be narrowly confined in scope if it is to pass constitutional muster. In such circumstances, we said:

"There is ample justification . . . for a search of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

"There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs—or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself. Such searches, in the absence of well-recognized exceptions, may be made only under the authority of a search warrant. The 'adherence to judicial processes' mandated by the Fourth Amendment requires no less." 395 U. S., at 763 (footnote omitted).

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

## 4th DRAFT

## SUPREME COURT OF THE UNITED STATES

From: Harlan, J.

No. 51.—OCTOBER TERM, 1970

Circulated:

Recirculated:

Feb 26 1971

Archie William Hill, Jr.,  
 Petitioner,  
 v.  
 State of California.

On Writ of Certiorari to the  
 Supreme Court of California.

[March —, 1971]

MR. JUSTICE HARLAN, whom MR. JUSTICE MARSHALL  
 joins, concurring in part and dissenting in part.

I agree with the Court's opinion except for its conclusion that the *Chimel* case is not to be applied to this one.

Two Terms ago, in *Chimel v. California*, 395 U. S. 752 (1969), we held that a search without a warrant, but incident to a lawful arrest, must be narrowly confined in scope if it is to pass constitutional muster. In such circumstances, we said:

"There is ample justification . . . for a search of the arrestee's person and the area 'within his immediate control'—construing that phrase to mean the area from within which he might gain possession of a weapon or destructible evidence.

"There is no comparable justification, however, for routinely searching any room other than that in which an arrest occurs—or, for that matter, for searching through all the desk drawers or other closed or concealed areas in that room itself. Such searches, in the absence of well-recognized exceptions, may be made only under the authority of a search warrant. The 'adherence to judicial processes' mandated by the Fourth Amendment requires no less." 395 U. S., at 763 (footnote omitted).

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 5, 1971

RE: No. 51 - Hill v. California

Dear Byron:

I agree.

Sincerely,

W. J. B. Jr.

Mr. Justice White

Cc. The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

January 12, 1971

No. 51 - Hill v. California

Dear Byron,

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

Sincerely yours,

C.S.

Mr. Justice White

Copies to the Conference

✓ Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun

From: White, J.

1

Circulated: 1-11-71

**SUPREME COURT OF THE UNITED STATES**

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

No. 51.—OCTOBER TERM, 1970

Archie William Hill, Jr.,  
Petitioner,  
v.  
State of California. } On Writ of Certiorari to the  
Supreme Court of California.

[January —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

On June 4, 1966, four armed men robbed a residence in Studio City, California. On June 5, Alfred Baum and Richard Bader were arrested for possession of narcotics; at the time of their arrest, they were driving petitioner Hill's car, and a search of the car produced property stolen in the Studio City robbery the day before. Bader and Baum both admitted taking part in the June 4 robbery, and both implicated Hill. Bader told the police that he was sharing an apartment with Hill at 9311 Sepulveda Boulevard. He also stated that the guns used in the robbery and other stolen property were in the apartment. On June 6, Baum and Bader again told the police that Hill had been involved in the June 4 robbery.

One of the investigating officers then checked official records on Hill, verifying his prior association with Bader, his age and physical description, his address, and the make of his car. The information the officer uncovered corresponded with the general descriptions by the robbery victims and the statements made by Baum and Bader.

Hill concedes that this information gave the police probable cause to arrest him, and the police undertook to do so on June 6. Four officers went to the Sepulveda Boulevard apartment, verified the address, and knocked.

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

p. 8

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From: White, J.

SUPREME COURT OF THE UNITED STATES

No. 51.—OCTOBER TERM, 1970

Translated: \_\_\_\_\_  
Recirculated: 1-15-71

Archie William Hill, Jr.,  
Petitioner,                   } On Writ of Certiorari to the  
v.                           } Supreme Court of California.  
State of California.

[January —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

On June 4, 1966, four armed men robbed a residence in Studio City, California. On June 5, Alfred Baum and Richard Bader were arrested for possession of narcotics; at the time of their arrest, they were driving petitioner Hill's car, and a search of the car produced property stolen in the Studio City robbery the day before. Bader and Baum both admitted taking part in the June 4 robbery, and both implicated Hill. Bader told the police that he was sharing an apartment with Hill at 9311 Sepulveda Boulevard. He also stated that the guns used in the robbery and other stolen property were in the apartment. On June 6, Baum and Bader again told the police that Hill had been involved in the June 4 robbery.

One of the investigating officers then checked official records on Hill, verifying his prior association with Bader, his age and physical description, his address, and the make of his car. The information the officer uncovered corresponded with the general descriptions by the robbery victims and the statements made by Baum and Bader.

Hill concedes that this information gave the police probable cause to arrest him, and the police undertook to do so on June 6. Four officers went to the Sepulveda Boulevard apartment, verified the address, and knocked.

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

p. 8

From: White, J.

3rd DRAFT

Circulated:

Recirculated: 3-19-71

SUPREME COURT OF THE UNITED STATES

No. 51.—OCTOBER TERM, 1970

Archie William Hill, Jr., Petitioner,  
v. State of California. } On Writ of Certiorari to the  
Supreme Court of California..

[March —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

On June 4, 1966, four armed men robbed a residence in Studio City, California. On June 5, Alfred Baum and Richard Bader were arrested for possession of narcotics; at the time of their arrest, they were driving petitioner Hill's car, and a search of the car produced property stolen in the Studio City robbery the day before. Bader and Baum both admitted taking part in the June 4 robbery, and both implicated Hill. Bader told the police that he was sharing an apartment with Hill at 9311 Sepulveda Boulevard. He also stated that the guns used in the robbery and other stolen property were in the apartment. On June 6, Baum and Bader again told the police that Hill had been involved in the June 4 robbery.

One of the investigating officers then checked official records on Hill, verifying his prior association with Bader, his age and physical description, his address, and the make of his car. The information the officer uncovered corresponded with the general descriptions by the robbery victims and the statements made by Baum and Bader.

Hill concedes that this information gave the police probable cause to arrest him, and the police undertook to do so on June 6. Four officers went to the Sepulveda Boulevard apartment, verified the address, and knocked..

Minor stylistic changes

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

From: White, J.

4th DRAFT

Circulated:

**SUPREME COURT OF THE UNITED STATES**

No. 51.—OCTOBER TERM, 1970

Archie William Hill, Jr., Petitioner,  
v.  
State of California. } On Writ of Certiorari to the  
Supreme Court of California.

[April —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

On June 4, 1966, four armed men robbed a residence in Studio City, California. On June 5, Alfred Baum and Richard Bader were arrested for possession of narcotics; at the time of their arrest, they were driving petitioner Hill's car, and a search of the car produced property stolen in the Studio City robbery the day before. Bader and Baum both admitted taking part in the June 4 robbery, and both implicated Hill. Bader told the police that he was sharing an apartment with Hill at 9311 Sepulveda Boulevard. He also stated that the guns used in the robbery and other stolen property were in the apartment. On June 6, Baum and Bader again told the police that Hill had been involved in the June 4 robbery.

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Hill concedes that this information gave the police probable cause to arrest him, and the police undertook to do so on June 6. Four officers went to the Sepulveda Boulevard apartment, verified the address, and knocked.

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 23, 1971

Re: No. 51 - Hill v. California

Dear John:

Please join me in your opinion  
concurring in part and dissenting in part.

Sincerely,



T.M.

Mr. Justice Harlan

cc: The Conference

February 11, 1971

Re: No. 51 - Hill v. California

Dear Byron:

Please join me.

Sincerely,

H. A. B.

Mr. Justice White

cc: The Conference