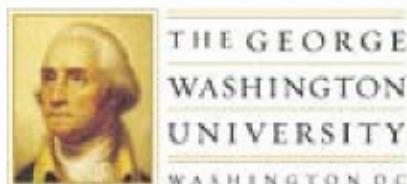


The Burger Court Opinion Writing Database

Thompson v. United States
400 U.S. 17 (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

GVR

CHAMBERS OF
THE CHIEF JUSTICE

October 21, 1970

Dear Potter:

Re: No. 5272 - Thompson v. United States

I am willing to join in the disposition proposed.

RJ and WSQ

Mr. Justice Stewart

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20542

CHAMBERS OF
JUSTICE HUGO L. BLACK

September 30, 1970

MEMORANDUM TO THE CONFERENCE

Re: Thompson v. United States, No. 5272 O. T.
1970.

Petitioner was convicted of bank robbery in Louisiana State Court and sentenced to 50 years in prison. The robbed bank was a national bank and petitioner was subsequently indicted, tried, and convicted in a federal court for precisely the same offense. The Solicitor General, although not conceding that the Double Jeopardy Clause of the Constitution bars consecutive state and federal prosecutions for the same offense, see Abbate v. United States, 359 U. S. 186; Bartkus v. Illinois, 359 U. S. 121, admits that the Department of Justice has a policy against such consecutive prosecutions. Since that policy was violated in this case, the Solicitor General requests that certiorari be granted, the judgment vacated and the case remanded to the United States District Court with instructions to dismiss the charges.

I believe that the Double Jeopardy Clause bars consecutive state and federal prosecutions for the same offense and would grant certiorari and reverse the judgment below. At the very least the recommendation of the Solicitor General should be followed. See Ashe v. Swenson, 397 U. S. 436. In any event, I ask that this case be discussed at the Conference on October 5, 1970.

H. L. B.

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

1

From: Black, J.

SUPREME COURT OF THE UNITED STATES

October Term, 1970

Circulated: OCT 1 1970
Recirculated:

THOMPSON v. UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 5272. Decided October —, 1970

MR. JUSTICE BLACK would grant certiorari and reverse
the decision below for the reasons stated in his dissenting
opinions in *Abbate v. United States*, 359 U. S. 187, 201
(1959), and *Bartkus v. Illinois*, 359 U. S. 121, 150 (1959).

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

From: Black, J.

Circulated:

2

Recirculated 10/7/1970

SUPREME COURT OF THE UNITED STATES

October Term, 1970

THOMPSON *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 5272. Decided October —, 1970

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, would grant certiorari and reverse the decision below for the reasons stated in his dissenting opinions in *Abbate v. United States*, 359 U. S. 187, 201 (1959), and *Bartkus v. Illinois*, 359 U. S. 121, 150 (1959).

6

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

1

SUPREME COURT OF THE UNITED STATES.

October Term, 1970 Circulated: OCT 15 1970

THOMPSON v. UNITED STATES Circulated:

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 5272. Decided October —, 1970

MR. JUSTICE BLACK would grant certiorari and reverse the decision below for the reasons stated in his dissenting opinions in *Abbate v. United States*, 359 U. S. 187, 201 (1959), and *Bartkus v. Illinois*, 359 U. S. 121, 150 (1959).

Dear Sirs
Dear Sirs
Dear Sirs
Dear Sirs
AW

October 20, 1970

Re: No. 5273 - Thompson v. United States

Dear Potter:

I am content, dubitante, to go along with
your per curiam.

Sincerely,

J. M. H.

Mr. Justice Stewart

CC: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

October 20, 1970

RE: No. 5272 - Thompson v. United States

Dear Potter:

I agree with your Per Curiam in the
above case.

Sincerely,

Bill

W. J. B. Jr.

Mr. Justice Stewart

cc: The Conference

1 : The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

1

From: Stewart, J.

SUPREME COURT OF THE UNITED STATES OCT 20 1970
Circulated:

October Term, 1970

Recirculated: _____

THOMPSON *v.* UNITED STATES

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 5272. Decided October —, 1970

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated and the case is remanded to the United States District Court for the Eastern District of Louisiana for consideration of the request contained in the memorandum filed in this Court by the Solicitor General.

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

2

SUPREME COURT OF THE UNITED STATES: Stewart, J.

October Term, 1970

Circulated:

OCT 20 1970 (2)

THOMPSON v. UNITED STATES

Recirculated:

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 5272. Decided October —, 1970

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment is vacated and the case is remanded to the United States District Court for the Eastern District of Louisiana for consideration of the request contained in the memorandum filed in this Court by the Solicitor General.

MR. JUSTICE BLACK, with whom MR. JUSTICE DOUGLAS joins, would grant certiorari and reverse the decision below for the reasons stated in his dissenting opinions in *Abbate v. United States*, 359 U. S. 187, 201 (1959), and *Bartkus v. Illinois*, 359 U. S. 121, 150 (1959).

October 20, 1970

Re: No. 5272 - Thompson v. United
States

Dear Potter:

I agree.

Sincerely,

B.R.W.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 21, 1970

Re: No. 5272 - Thompson v. United States

Dear Potter:

Please join me in your per curiam.

Sincerely,


T.M.

Mr. Justice Stewart

cc: The Conference

October 21, 1970

Re: No. 5272 - Thompson v. United States

Dear Potter:

I suspect I share the same mild doubts expressed by Mr. Justice Harlan, but I am content to go along with the proposed Per Curiam.

Sincerely,

H. A. B.

Mr. Justice Stewart

cc: The Conference