

# The Burger Court Opinion Writing Database

*Bell v. Burson*

402 U.S. 535 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



SP 22

Supreme Court of the United States  
Washington, D. C. 20530

CHAMBERS OF  
THE CHIEF JUSTICE

May 18, 1971

No. 5586 - Bell v. Burson

Dear Bill:

Please show me as concurring in the result.

Regards,

WB

Mr. Justice Brennan

CC: The Conference

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

CHAMBERS OF  
JUSTICE HUGO L. BLACK

May 14, 1971

Dear Bill,

Re: No. 5586 - Bell v. Burson

Please note that I concur in the  
result.

Sincerely,

*Hugo*  
Hugo

Mr. Justice Brennan

cc: Members of the Conference

May 11, 1971

Dear Bill:

In No. 5586 - Bell v. Burgess, please  
join me in your opposition.

William G. Douglas

Mr. Justice Brennan

May 13, 1971

Re: No. 5386 - Bell v. Burton

Dear Bill:

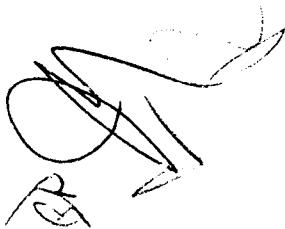
John, I agree with your opinion, and am glad to join.

Sincerely,

J. M. H.

Mr. Justice Brennan

CC: The Conference



OP/AM  
J. S. J.  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Stewart  
Mr. Justice White  
✓ Mr. Justice Marshall  
Mr. Justice Blackmun

2nd DRAFT

Frank J. Brennan, Jr.

5-11-71

SUPREME COURT OF THE UNITED STATES

No. 5586.—OCTOBER TERM, 1970

Paul J. Bell, Jr., Petitioner,  
v.  
R. H. Burson, Director, Georgia Department of Public Safety. On Writ of Certiorari to the Court of Appeals of Georgia.

[May —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

Georgia's Motor Vehicle Safety Responsibility Act provides that the motor vehicle registration and driver's license of an uninsured motorist involved in an accident shall be suspended unless he posts security to cover the amount of damages claimed by aggrieved parties in reports of the accident.<sup>1</sup> The administrative hearing con-

<sup>1</sup> Motor Vehicle Safety Responsibility Act, Ga. Code Ann. §§ 92A-601 *et seq.* In pertinent part the Act provides that anyone involved in an accident must submit a report to the Director of Public Safety, Ga. Code Ann. § 92A-604 (Supp. 1970). Within 30 days of the receipt of the report the Director "shall suspend the license and all registration certificates of the operator and owner of any motor vehicle in any manner involved in the accident unless or until the operator or owner has previously furnished or immediately furnishes security, sufficient . . . to satisfy any judgments for damages or injuries resulting . . . and unless such operator or owner shall give proof of financial responsibility for the future as is required in section 92A-615.1 . . . ." Ga. Code Ann. § 92A-605 (a) (Supp. 1970). Section 92A-615.1 (Supp. 1970) requires that "such proof must be maintained for a one year period." Section 92A-605 (a) works no suspension, however, (1) if the owner or operator had in effect at the time of the accident a liability insurance policy or other bond, Ga. Code Ann. § 92A-605 (c) (Supp. 1970); (2) if the owner or

SP  
Page 9.

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

From: Brennan, J.

3rd DRAFT

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

**SUPREME COURT OF THE UNITED STATES**

Recirculated: ~~5/16/71~~

No. 5586.—OCTOBER TERM, 1970

Paul J. Bell, Jr., Petitioner,

v. On Writ of Certiorari to  
R. H. Burson, Director, the Court of Appeals of  
Georgia Department of Georgia.  
Public Safety.

[May —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

May 11, 1971

No. 5586 - Bell v. Burson

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

JMH

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

November 12, 1970

MEMORANDUM TO THE CONFERENCE

Re: No. 5586 - Bell v. Burson  
No. 495 - Gaytan v. Cassidy

There were sufficient votes to grant No. 5586 at the last Conference subject to a jurisdiction check by this office.

It appears that the suspension authorized by the statute continues for one year from the date of the suspension. Here the lower court refused to suspend but on March 4, 1970, the Intermediate Appellate Court reversed, holding that fault was irrelevant to the issue of suspension. Rehearing was denied as was certiorari to the Georgia Supreme Court. The respondent states unequivocally that as of this date no suspension of petitioner's license "has even been effected." The case would not appear to be moot.

However, petitioner does not state how and when the federal question was presented to the Georgia courts. There is no statement that as appellee he presented the issue to the Intermediate Appellate Court. There is no mention of a federal question in the appellate court's opinion and nothing to indicate that the federal issue was presented in the petition for rehearing or the petition for certiorari to the State Supreme Court.

Perhaps petitioner should be requested to supplement his petition with a statement of the manner in which the federal question was presented to and passed on by the Georgia courts.

As for No. 495, it seems very close to No. 5586. The Texas law, like the Georgia statute, requires posting of bond following the accident without the necessity of showing fault in any way. There is no finding of "no fault" as in

No. 5586, but it seems reasonably clear that the question of fault is deemed irrelevant in determining suspension.

There is a jurisdictional problem here too. In the process of giving summary judgment upholding the statute, the three-judge court stated the federal question was not substantial. Arguably, this means that the three-judge court should have dissolved itself and that the judgment is not appealable here even though we might think the issue substantial. This particular jurisdictional matter is not raised by appellee.

B.R.W.

May 12, 1971

Re: No. 5586 - Bell v. Burton

Dear Bill:

Please join us.

Sincerely,

B.R.W.

Mr. Justice Brennan

cc: Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 19, 1971

Re: No. 5586 - Bell v. Burson

Dear Bill:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Brennan

cc: The Conference

May 17, 1971

No. 110. 5586 - Bell v. Surson

Dear Bill:

Please note that I, too, concur in the result.

Sincerely,

H. S. S.

J. P. Justice, Attorney

cc: The Conference

BB