

# The Burger Court Opinion Writing Database

*Triangle Improvement Council v. Ritchie*  
402 U.S. 497 (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  
JUSTICE HUGO L. BLACK

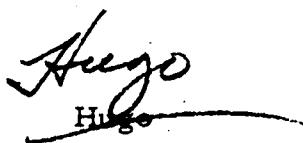
April 1, 1971

Dear Bill,

Re: No. 712 - Triangle Improvement Council  
v. William S. Ritchie, etc.

I would like to agree to your dissent but it strikes me the case would involve just as much a violation of the 1965 Act whether the people denied its benefits were black or white. I hope, therefore, you can see fit to strike out the third sentence in the first paragraph and the first paragraph on page 2.

Sincerely,



Mr. Justice Douglas

cc: Members of the Conference

February 23, 1971

Dear Chief:

In No. 712 - Triangle Improvement v.  
Ritchie, please note I would grant the  
injunction.

William O. Douglas

The Chief Justice

CC: Mr. Seaver  
Mr. Putzel

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1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 712.—OCTOBER TERM, 1970

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commis-  
sioner, State Road Commis-  
sion of West Virginia,  
et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Fourth Circuit.

[April —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

This case involves two federal-aid interstate highway projects in Charleston, West Virginia. Charleston lies in a narrow valley, along the Kanawha River and is bisected on the east by the Elk River which joins the Kanawha near the center of the city. The Triangle district, located along the south side of the Elk near its mouth, is the oldest and largest predominately black community in the State. Many of its residents are elderly and almost all have comparatively low income. As often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.

The common urban housing shortage is severe in Charleston in part because many homes have been demolished for public projects. The impact in the Triangle has been exceptionally severe. Land clearance for a proposed expansion of a local water company displaced some 243 persons a few years ago. The planned interstate highway will displace about 300 more. And a proposed urban renewal project (which has been postponed indefinitely because of lack of replacement housing) will displace almost all of the area's 2,000 residents.

WJM

*Pass  
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3-31*

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 712.—OCTOBER TERM, 1970

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commissioner,  
State Road Commission of West Virginia,  
et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Fourth Circuit.

[April —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

This case involves two federal-aid interstate highway projects in Charleston, West Virginia. Charleston lies in a narrow valley, along the Kanawha River and is bisected on the east by the Elk River which joins the Kanawha near the center of the city. The Triangle district, located along the south side of the Elk near its mouth, is the oldest and largest predominately black community in the State. Many of its residents are elderly and almost all have comparatively low income. As often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.

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4-1*

3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 712.—OCTOBER TERM, 1970

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commis-  
sioner, State Road Commis-  
sion of West Virginia,  
et al.

On Writ of Certiorari  
to the United States  
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[April —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK  
and MR. JUSTICE BRENNAN concur, dissenting.

This case involves two federal-aid interstate highway projects in Charleston, West Virginia. Charleston lies in a narrow valley, along the Kanawha River and is bisected on the east by the Elk River which joins the Kanawha near the center of the city. Many of the residents of the Triangle district are elderly and almost all have comparatively low income. As often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.

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(C) (2)

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

4th DRAFT

## SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

Circulated:

No. 712.—OCTOBER TERM, 1970

Recirculated: 4-2

Triangle Improvement Council  
et al., Petitioners,

v.

William S. Ritchie, Commissioner, State Road Commission of West Virginia,  
et al.On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Fourth Circuit.

[April —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK  
and MR. JUSTICE BRENNAN concur, dissenting.

This case involves two federal-aid interstate highway projects in Charleston, West Virginia. Charleston lies in a narrow valley, along the Kanawha River and is bisected on the east by the Elk River which joins the Kanawha near the center of the city. Many of the residents of the Triangle district are elderly and almost all have comparatively low income. As often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.

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4-9*

5th DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 712.—OCTOBER TERM, 1970

Triangle Improvement Council et al., Petitioners.  <i>v.</i> William S. Ritchie, Commis- sioner, State Road Commis- sion of West Virginia, et al.	On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.
--	--

[April —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL concur, dissenting.

This case involves two federal-aid interstate highway projects in Charleston, West Virginia. Charleston lies in a narrow valley, along the Kanawha River and is bisected on the east by the Elk River which joins the Kanawha near the center of the city. Many of the residents of the Triangle district are elderly and almost all have comparatively low income. As often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.

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CAW

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Monday

Hand Copy  
Reid  
5-3

6th DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 712.—OCTOBER TERM, 1970

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commissioner, State Road Commission of West Virginia,  
et al. } On Writ of Certiorari  
to the United States Court of Appeals for  
the Fourth Circuit.

[May 17, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK, MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL concur, dissenting.

This case involves two federal-aid interstate highway projects in Charleston, West Virginia. Charleston lies in a narrow valley, along the Kanawha River and is bisected on the east by the Elk River which joins the Kanawha near the center of the city. The Triangle district is located along the south side of the Elk and near its mouth. Many of the residents of the Triangle district are elderly and almost all have comparatively low income. As often happens with interstate highways, the route selected was through the poor area of town, not through the area where the politically powerful people live.

The common urban housing shortage is severe in Charleston in part because many homes have been demolished for public projects. The impact of public projects in the Triangle has been exceptionally severe. Land clearance for a proposed expansion of a local water company displaced some 243 persons a few years ago. The planned interstate highway will displace about 300 more.

WV

May 17, 1971

Dear Chief:

In No. 712 - Triangle Improvement  
Co. v. William S. Ritchie, Commissioner,  
when you announce the order of the Court  
would you kindly announce that I have  
filed a dissenting opinion, in which  
Justice Black, Justice Brennan, and  
Justice Marshall join.

W. O. D.

The Chief Justice

WJ

April 8, 1971

Re: No. 712 - Triangle Improvement  
Coonell v. Ritchie

Dear Potter:

I agree with your per curiam

Sincerely,

J. M. H.

Mr. Justice Stewart

cc: The Conference

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B

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

## 1st DRAFT

SUPREME COURT OF THE UNITED STATES <sup>Argued</sup> **MAY 13 1971**

No. 712.—OCTOBER TERM, 1970

Circulated:

Recirculated:

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commis-  
sioner, State Road Commis-  
sion of West Virginia,  
et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Fourth Circuit.

[May —, 1971]

MR. JUSTICE HARLAN, concurring.

In light of my Brother DOUGLAS' assertion, *post*, at —, that today's disposition might be taken to impair the integrity of the "rule of four," see *Ferguson v. Moore-McCormack Lines*, 352 U. S. 521, 559-562, 564 (1957) (opinion of this writer), I deem it appropriate to set forth my reasons for joining in the dismissal of the writ as improvidently granted.

The Federal Aid Highway Act of 1968 provided in pertinent part that:

"The Secretary [of Transportation] shall not approve any project [such as that here involved] which will cause the displacement of any persons . . . unless he receives satisfactory assurances from the state highway department that—

"(3) within a reasonable period of time prior to displacement there will be available, to the extent that can reasonably be accomplished, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary

wB

WD

Minor stylistic changes only

2nd DRAFT

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

## SUPREME COURT OF THE UNITED STATES

No. 712.—OCTOBER TERM, 1970

From: Harlan, J.

Circulated:

MAY 14 1971

Recirculated:

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commissioner, State Road Commission of West Virginia,  
et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Fourth Circuit.

[May —, 1971]

MR. JUSTICE HARLAN, concurring.

In light of my Brother DOUGLAS' assertion, *post*, at —, that today's disposition might be taken to impair the integrity of the "rule of four," see *Ferguson v. Moore-McCormack Lines*, 352 U. S. 521, 559-562, 564 (1957) (opinion of this writer), I deem it appropriate to set forth my reasons for joining in the dismissal of the writ as improvidently granted.

The Federal Aid Highway Act of 1968 provided in pertinent part that:

"The Secretary [of Transportation] shall not approve any project [such as that here involved] which will cause the displacement of any persons . . . unless he receives satisfactory assurances from the state highway department that—

"(3) within a reasonable period of time prior to displacement there will be available, to the extent that can reasonably be accomplished, in areas not generally less desirable in regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and individuals displaced, decent, safe and sanitary

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

March 31, 1971

RE: No. 712 - Triangle Improvement Council  
v. Ritchie

Dear Bill:

Please join me in your dissent in the  
above.

Sincerely,



W.J.B. Jr.

Mr. Justice Douglas

cc: The Conference

TP  
RV  
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

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

FROM: Stewart, J.

No. 712.—OCTOBER TERM, 1970

Circulated: APR 1 1971

Recirculated:

Triangle Improvement Council  
et al., Petitioners,  
v.  
William S. Ritchie, Commissioner,  
State Road Commission of West Virginia, et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Fourth Circuit.

[April —, 1971]

PER CURIAM.

The petition for writ of certiorari is dismissed as improvidently granted.

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 9, 1971

Re: No. 712 - Triangle Improvement v. Ritchie

Dear Bill:

Please join me in your dissent.

Sincerely,

  
T.M.

Mr. Justice Douglas

cc: The Conference

April 9, 1971

Re: No. 712 - Triangle Improvement Council v. Ritchie

Dear Potter:

I apparently misunderstood, but I had thought that the DIG Per Curiam, with the dissent, was to have been announced on April 5. This is just to let you know, as Justice Harlan did, that I go along with the proposed DIG.

Sincerely,

HAB

Mr. Justice Stewart