

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,

Hugo
Hugo

Mr. Justice Douglas

cc: Members of the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

SSSNCNOC FO ADVADT I NY

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

W.D.
admin

Issue
Cis
3-30
LAP

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.

WV

James
Reed
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, 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 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.

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.

WJ

*File
again
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
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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WJ

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

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

2, 5, 6

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, 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
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 resi-
dents 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 politi-
cally powerful people live.

The common urban housing shortage is severe in
Charleston in part because many homes have been de-
molished for public projects. The impact in the Triangle
has been exceptionally severe. Land clearance for a pro-
posed 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 in-
definitely because of lack of replacement housing) will
displace almost all of the area's 2,000 residents.

Handwritten marks and scribbles in the top left corner.

Please join me

*File
Reis
4-9*

5th 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, with whom MR. JUSTICE BLACK,
MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL con-
cur, 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.

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.

WV

Read for
Monday

Hand Copy
Review
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, 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 4, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BLACK,
MR. JUSTICE BRENNAN, and MR. JUSTICE MARSHALL con-
cur, 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.

WM

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
Council v. Ritchie

Dear Potter:

I agree with your per curiam

Sincerely,

J. M. H.

Mr. Justice Stewart

cc: The Conference

10. 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 ^{Justice Harlan} 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

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.

[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.

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"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

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

From: Harlan, J.

Circulated: _____

Recirculated: **MAY 14 1971**

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

RE

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,

Bill

W.J.B. Jr.

Mr. Justice Douglas

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. SUPREME COURT RECORDS

RL

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, 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]

PER CURIAM.

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

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

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