

# The Burger Court Opinion Writing Database

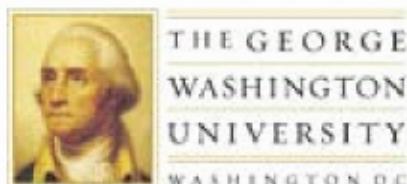
*Clay v. United States*

403 U.S. 698 (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

May 26, 1971

CHAMBERS OF  
THE CHIEF JUSTICE

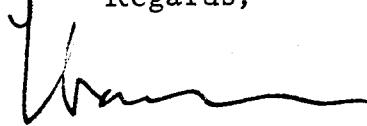
No. 783 - Clay v. United States

Dear John:

On my Appendix in the Clay case I had prominently marked the following pages of the Appendix as to the controlling factual aspects. For whatever it may be worth I pass them on to you.

17a  
101a  
30a  
40 et seq.  
125

Regards,



Mr. Justice Harlan

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

CHAMBERS OF  
THE CHIEF JUSTICE

*law*

June 22, 1971

Re: No. 783 - Clay v. U. S.

Dear Potter:

Please join me.

Regards,

*WEB*

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE HUGO L. BLACK

June 24, 1971

Dear Potter,

Re: No. 783 - Clay v. United States.

I agree.

Sincerely,



A handwritten signature in black ink, appearing to read "Hugo" above a smaller "Hugo".

Mr. Justice Stewart

cc: Members of the Conference

*W.W.  
K.O. [initials]  
L*  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

April 22, 1971

MEMORANDUM TO THE CONFERENCE:

I am sending each of you a memo in the Clay case, No. 783, because it was poorly briefed and argued, and the record is not too revealing. My travels in Islam, however, got me interested in the Koran; and as a result of this hobby I send this memo, which may or may not be helpful to you but which explains my position.

W. O. D.

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

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 783.—OCTOBER TERM, 1970

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States. } On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.

[April —, 1971]

MR. JUSTICE DOUGLAS.

This case is very close in its essentials to *Negre v. Larsen*, 400 U. S. —, decided March 8, 1971. The Church to which that registrant belonged favored "just" wars and provided guidelines to define them. The Church did not oppose the war in Vietnam but the registrant refused to comply with an order to go to Vietnam because participating in that conflict would violate his conscience. The Court refused to grant him relief as a conscientious objector, overruling his constitutional claim.

The case of Clay is somewhat different, though analogous. While there are random bits of evidence showing conscientious objection to the Vietnam conflict, the basic objection was on the teachings of his religion. He testified that he was "sincere in every bit of what the Holy Qur-can and the teachings of the Honorable Elijah Muhammad tells us and it is that we are not to participate in wars on the side of nobody who—on the side of non-believers, and this is a Christian country and this is not a Muslim country, and the Government and the history and the facts show that every move toward the Honorable Elijah Muhammad is made to distort and is made to ridicule him and is made to condemn him and the Government has admitted that the police of Los Angeles were wrong about attacking and killing our

3rd DRAFT

700  
Cir  
4/26/71

**SUPREME COURT OF THE UNITED STATES**

No. 783.—OCTOBER TERM, 1970

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States. } On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.

[May —, 1971]

MR. JUSTICE DOUGLAS.

This case is very close in its essentials to *Negre v. Larsen*, 400 U. S. —, decided March 8, 1971. The Church to which that registrant belonged favored "just" wars and provided guidelines to define them. The Church did not oppose the war in Vietnam but the registrant refused to comply with an order to go to Vietnam because participating in that conflict would violate his conscience. The Court refused to grant him relief as a conscientious objector, overruling his constitutional claim.

The case of Clay is somewhat different, though analogous. While there are random bits of evidence showing conscientious objection to the Vietnam conflict, the basic objection was on the teachings of his religion. He testified that he was "sincere in every bit of what the Holy Qur-can and the teachings of the Honorable Elijah Muhammad tells us and it is that we are not to participate in wars on the side of nobody who—on the side of non-believers, and this is a Christian country and this is not a Muslim country, and the Government and the history and the facts show that every move toward the Honorable Elijah Muhammad is made to distort and is made to ridicule him and is made to condemn him and the Government has admitted that the police of Los Angeles were wrong about attacking and killing our

W.

file  
Rec'd  
6/10/71

5th DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 783.—OCTOBER TERM, 1970

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States. } On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.

[June —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I would reverse this judgment of conviction and set the petitioner free.

This case is very close in its essentials to *Negre v. Larsen*, 400 U. S. —, decided March 8, 1971. The Church to which that registrant belonged favored "just" wars and provided guidelines to define them. The Church did not oppose the war in Vietnam but the registrant refused to comply with an order to go to Vietnam because participating in that conflict would violate his conscience. The Court refused to grant him relief as a conscientious objector, overruling his constitutional claim.

The case of Clay is somewhat different, though analogous. While there are some bits of evidence showing conscientious objection to the Vietnam conflict, the basic objection was based on the teachings of his religion. He testified that he was

"sincere in every bit of what the Holy Qur-an and the teachings of the Honorable Elijah Muhammad tells us and it is that we are not to participate in wars on the side of nobody who—on the side of non-believers, and this is a Christian country and this is not a Muslim country, and the Government and the history and the facts show that every move

40

Rec'd  
6/10/71

6th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 783.—OCTOBER TERM, 1970

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States. } On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.

[June —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I would reverse this judgment of conviction and set the petitioner free.

It comes as a surprise to learn that *Sicurella v. United States*, 348 U. S. 385, controls this case. That case is as far from the present as can be imagined. In *Sicurella* the wars that the applicant would fight were not "carnal" but those "in defense . . . of Kingdom interests." *Id.*, at 389. Since "spiritual" not "carnal" wars were intended it was "impossible to determine on exactly which points" the Appeal Board had based its decision. Hence we reversed the decision sustaining the judgment of conviction. We said: "It is difficult for us to believe that the Congress had in mind this type of activity when it said the thrust of conscientious objection must go to 'participation in war in any form.'"

In the present case there is no line between "carnal" war and "spiritual" or symbolic wars. Those who know the history of the Mediterranean littoral know that the *jihad* of the Moslem was a bloody war.

This case is very close in its essentials to *Negre v. Larsen*, 400 U. S. \_\_\_, decided March 8, 1971. The Church to which that registrant belonged favored "just" wars and provided guidelines to define them. The Church did not oppose the war in Vietnam but the regis-

WIP

File  
Rec'd

(e/15)71

7th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 783.—OCTOBER TERM, 1970

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States. } On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.

[June —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I would reverse this judgment of conviction and set the petitioner free.

In *Sicurella v. United States*, 348 U. S. 385, the wars that the applicant would fight were not "carnal" but those "in defense of Kingdom interests." *Id.*, at 389. Since it was impossible to determine on exactly which grounds the Appeal Board had based its decision, we reversed the decision sustaining the judgment of conviction. We said: "It is difficult for us to believe that the Congress had in mind this type of activity when it said the thrust of conscientious objection must go to 'participation in war in any form.'" *Id.*, at 390.

In the present case there is no line between "carnal" war and "spiritual" or symbolic wars. Those who know the history of the Mediterranean littoral know that the *jihad* of the Moslem was a bloody war.

This case is very close in its essentials to *Negre v. Larsen*, 401 U. S. 437, decided March 8, 1971. The Church to which that registrant belonged favored "just" wars and provided guidelines to define them. The Church did not oppose the war in Vietnam but the registrant refused to comply with an order to go to Vietnam because participating in that conflict would violate his

WV

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

June 18, 1971

MEMORANDUM TO THE CONFERENCE:

In re No. 783 - Clay v. United States, I am adding the following as a footnote on page one:

"As to Mr. Justice Stewart's analysis of Sicurella v. United States, 348 U.S. 385, and its application of Stromberg v. California, 283 U.S. 359, little need be said. He is of course quite accurate if opposition "to war in any form" as explained in Gillette v. United States, 401 U.S. 437, and Negre v. Larson, 401 U.S. 437 is the law. But in my view the rulings in Gillette and Negre were unconstitutional. Hence of the three possible grounds on which the Board denied conscientious objector status, none was valid."

W<sup>WD</sup>  
William O. Douglas

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

10/22  
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

## 8th DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 783.—OCTOBER TERM, 1970

J.

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States.

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

[June —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

I would reverse this judgment of conviction and set the petitioner free.

In *Sicurella v. United States*, 348 U. S. 385,<sup>1</sup> the wars that the applicant would fight were not "carnal" but those "in defense of Kingdom interests." *Id.*, at 389. Since it was impossible to determine on exactly which grounds the Appeal Board had based its decision, we reversed the decision sustaining the judgment of conviction. We said: "It is difficult for us to believe that the Congress had in mind this type of activity when it said the thrust of conscientious objection must go to 'participation in war in any form.'" *Id.*, at 390.

In the present case there is no line between "carnal" war and "spiritual" or symbolic wars. Those who know the history of the Mediterranean littoral know that the *jihad* of the Moslem was a bloody war.

<sup>1</sup> As to MR. JUSTICE STEWART's analysis of *Sicurella v. United States*, 348 U. S. 385, and its application of *Stromberg v. California*, 283 U. S. 359, little need be said. He is of course quite accurate if opposition "to war in any form" as explained in *Gillette v. United States*, 401 U. S. 437, and *Negre v. Larson*, 401 U. S. 437, is the law. But in my view the rulings in *Gillette* and *Negre* were unconstitutional. Hence of the three possible grounds on which the Board denied conscientious objector status, none was valid.

BP  
*out*  
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

9th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 783.—OCTOBER TERM, 1970

Circulated:

Recirculated: 6-22

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States.

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

[June 28, 1971]

MR. JUSTICE DOUGLAS, concurring.

I would reverse this judgment of conviction and set the petitioner free.

In *Sicurella v. United States*, 348 U. S. 385,<sup>1</sup> the wars that the applicant would fight were not "carnal" but those "in defense of Kingdom interests." *Id.*, at 389. Since it was impossible to determine on exactly which grounds the Appeal Board had based its decision, we reversed the decision sustaining the judgment of conviction. We said: "It is difficult for us to believe that the Congress had in mind this type of activity when it said the thrust of conscientious objection must go to 'participation in war in any form.'" *Id.*, at 390.

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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 Douglas

✓  
 p 3

From: Douglas, J.

SUPREME COURT OF THE UNITED STATES

No. 783.—OCTOBER TERM, 1970

Recirculated: 6-26

Cassius Marsellus Clay, Jr.,  
 also known as Muhammad  
 Ali, Petitioner,  
 v.  
 United States. } On Writ of Certiorari to  
 the United States Court  
 of Appeals for the Fifth  
 Circuit.

[June 28, 1971]

MR. JUSTICE DOUGLAS, concurring.

I would reverse this judgment of conviction and set the petitioner free.

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<sup>1</sup> As to the Court's analysis of *Sicurella v. United States*, 348 U. S. 385, and its application of *Stromberg v. California*, 283 U. S. 359, little need be said. The Court is of course quite accurate if opposition "to war in any form" as explained in *Gillette v. United States*, 401 U. S. 437, and *Negre v. Larson*, 401 U. S. 437, is the law. But in my view the rulings in *Gillette* and *Negre* were unconstitutional. Hence of the three possible grounds on which the Board denied conscientious objector status, none was valid.

WB

June 9, 1971

No. 781 - Clay v. United States

Dear Gates:

My sectional Conference vote was to affirm, and it was of course on that basis that you assigned the opinion to me. As I tentatively indicated to the Conference a week or so ago and in later conversation with you, subsequent work on your opinion brought no serious misgivings, and I am now convinced that the conclusion should be reversed. I attach a memorandum setting forth the reasons that have brought me to this conclusion.

I regret very much that my switch in vote has recently come at the last minute time of the closing days of the Term and that, with Brother Justice [illegible] out of the circuit, it will result in a 4-4 tie on the vote now stand. But seeing the case as I do, I cannot in good conscience vote otherwise.

Sincerely,

J. M. H.

The Chief Justice

CC: The Conference

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

From: Harlan, J.

No. 783.—OCTOBER TERM, 1970

JUN 10 1971  
Circulated.

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
*v.*  
United States.

On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.  
Recirculated:

[June —, 1971]

Memorandum to the Conference from MR. JUSTICE HARLAN.

We have under review a conviction for willful refusal to submit to induction. 50 U. S. C. App. § 462 (a). The defense is that the induction notice was invalid because petitioner's claim to be classified as a conscientious objector was erroneously denied. As we recently observed,

"[c]onscientious objector claims turn on the resolution of factual questions relating to the nature of a registrant's beliefs concerning war, *Gillette v. United States*, 401 U. S. 437 (1971), the basis of the objection in conscience and religion, *Welsh v. United States*, 398 U. S. 333 (1970), and the registrant's sincerity. *Witmer v. United States*, 348 U. S. 375, 381 (1955)." *McGee v. United States*, slip op. 11 (1971).

In oral argument before this Court the Solicitor General conceded this petitioner's sincerity and the religious basis of his beliefs. Transcript of Argument 24. It was not always thus, as will appear.

I

Petitioner's application for classification as a conscientious objector was turned down by his local draft

WD

John H. [Signature]

MEMORANDUM TO THE CONFERENCE

June 14, 1971

Re: No. 701 - Clay v. United States

Dear Brothers:

I thought I should let you know that I am sending to the printer, hopefully this afternoon, a revised draft of my earlier memorandum to the court.

Respectfully,

J. M. H.

SUBSTANTIAL CHANGES  
6-7, 16-21, 24-25

3rd 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

From: Harlan, J.

No. 783.—OCTOBER TERM, 1970

Circulated:

JUN 15 1971

Cassius Marsellus Clay, Jr.,  
also known as MuhammadAli, Petitioner,  
v.  
United States.On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.  
Recirculated:

[June —, 1971]

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"[c]onscientious objector claims turn on the resolution of factual questions relating to the nature of a registrant's beliefs concerning war, *Gillette v. United States*, 401 U. S. 437 (1971), the basis of the objection in conscience and religion, *Welsh v. United States*, 398 U. S. 333 (1970), and the registrant's sincerity. *Witmer v. United States*, 348 U. S. 375, 381 (1955)." *McGee v. United States*, slip op. 11 (1971).

In oral argument before this Court the Solicitor General conceded this petitioner's sincerity and the religious basis of his beliefs. Transcript of Argument 24. It was not always thus, as will appear.

## I

Petitioner's application for classification as a conscientious objector was turned down by his local draft

Supreme Court of the United States  
Washington, D. C. 20542CHAMBERS OF  
JUSTICE JOHN M. HARLAN

J.M.H.

June 21, 1971

Re: No. 783 - Clay v. United States

Dear Potter:

I must confess to finding myself a little uncomfortable with your proposed per curiam. I am not convinced that the passages from the Department of Justice advice letter have the same import in context as they do in the order in which they appear on page four of your opinion. In addition, I am inclined to think that the opinion pushes the Government's concessions before us further than they were intended to reach.

On the assumption that a majority of the Court may not share these viewpoints, I would appreciate your adding at the foot of your opinion the following:

"MR. JUSTICE HARLAN, concurring.

I concur in the result on the following ground. The Department of Justice advice letter was at least susceptible to the reading that petitioner's proof of sincerity was insufficient as a matter of law because his conscientious objector claim had not been timely asserted. This would have been erroneous advice had the Department's letter been so read. Since the Appeals Board might have acted on such an interpretation of the letter, reversal is required under Sicurella v. United States, 348 U.S. 385 (1955)."

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.

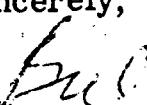
June 10, 1971

RE: No. 783 - Clay v. United States

Dear John:

While I still think that the so-called Stromberg ground of Sicurella would be enough to reverse this conviction, I am persuaded by your opinion that the other aspect of Sicurella also requires reversal. I, therefore, would be happy to have you join me.

Sincerely,

  
W.J.B. Jr.

Mr. Justice Harlan

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 10, 1971

No. 783 - Clay v. U.S.

Dear John,

I agree with your memo and would gladly join it if it should become an opinion of the Court. I also think, however, that there is another reason why this conviction cannot stand -- what Bill Brennan calls the "Stromberg ground of Sicurella." Over the week-end I may try my hand at writing a few words on that subject.

Sincerely yours,

P.S.

Mr. Justice Harlan

Copies to the Conference

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

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES** Stewart, J.

No. 783.—OCTOBER TERM, 1970

Circulated: JUN 14 1971

Recirculated:

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
*v.*  
United States.

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

[June —, 1971]

MR. JUSTICE STEWART.

I agree with the memorandum of MR. JUSTICE HARLAN, but even if he is wrong—even if it can be said that there was a basis in fact for finding that the petitioner's objection to war is selective—this conviction must still be set aside for another quite independent reason.

In order to qualify for classification as a conscientious objector, a registrant must satisfy three basic tests. He must show that he is conscientiously opposed to war in any form. *Gillette v. United States*, 401 U. S. 437. He must show that this opposition is based upon religious training and belief, as the term has been construed in our decisions. *United States v. Seeger*, 380 U. S. 163; *Welch v. United States*, 398 U. S. 333. And he must show that this objection is sincere. *Witmer v. United States*, 348 U. S. 375. In applying these tests, the Selective Service System must be concerned with the registrant as an individual, not with its own interpretation of the dogma of the religious sect, if any, to which he may belong. *United States v. Seeger*, *supra*; *Gillette v. United States*, *supra*; *Williams v. United States*, 216 F. 2d 350, 352.

The petitioner's criminal conviction stemmed from the Selective Service System's denial of his appeal seeking

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.

Circulated: JUN 21 1971

No. 783.—OCTOBER TERM, 1970

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

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States.

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

[June —, 1971]

PER CURIAM.

The petitioner was convicted for willful refusal to submit to induction into the Armed Forces. 50 U. S. C. § 462 (a). The judgment of conviction was affirmed by the Court of Appeals for the Fifth Circuit.<sup>1</sup> We granted certiorari, 400 U. S. 990, to consider whether the induction notice was invalid because grounded upon an erroneous denial of the petitioner's claim to be classified as a conscientious objector.

I

The petitioner's application for classification as a conscientious objector was turned down by his local draft board, and he took an administrative appeal. The State Appeal Board tentatively classified him I-A (eligible for unrestricted military service) and referred his file to the Department of Justice for an advisory recommendation, in accordance with then-applicable procedures. 50

<sup>1</sup> The original judgment of affirmance, 397 F. 2d 901, was set aside by this Court on a ground wholly unrelated to the issues now before us, *sub nom. Giordano v. United States*, 394 U. S. 310. Upon remand, the Court of Appeals again affirmed the conviction. 430 F. 2d 165.

WB  
Congress  
for  
Human  
Rights

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

3, 4, 6, 7, 8

Oct 11

3rd DRAFT

From: Stewart, J.

Circulated:

Recirculated: JUN 23 1971

SUPREME COURT OF THE UNITED STATES

No. 783.—OCTOBER TERM, 1970

Cassius Marsellus Clay, Jr.,  
also known as Muhammad  
Ali, Petitioner,  
v.  
United States. } On Writ of Certiorari to  
the United States Court  
of Appeals for the Fifth  
Circuit.

[June —, 1971]

PER CURIAM.

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<sup>1</sup> The original judgment of affirmance, 397 F. 2d 901, was set aside by this Court on a ground wholly unrelated to the issues now before us, *sub nom. Giordano v. United States*, 394 U. S. 310. Upon remand, the Court of Appeals again affirmed the conviction. 430 F. 2d 165.

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 21, 1971

Re: No. 783 - Clay v. United States

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

Copies to Conference

✓ 30  
June 18, 1971

Re: No. 783 - Clay v. United States

Dear Potter:

If your memorandum goes to publication, I  
would be pleased to have you join me.

Sincerely,

H. A. B.

Mr. Justice Stewart

cc: The Conference

June 21, 1971

Re: No. 783 - Clay v. United States

Dear Peter:

Please join me in your recirculation of  
today.

Sincerely,

H.A.B.

Mr. Justice Stewart

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J