

The Burger Court Opinion Writing Database

Wright v. Council of Emporia

407 U.S. 451 (1972)

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
THE CHIEF JUSTICE

March 16, 1972

To: Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: _____ Justice

Circulated: MAR 16

Recirculated: _____

MEMORANDUM TO THE CONFERENCE:

Re: No. 70-188 -- Wright v. Council of the City of Emporia

We granted the writ to review a judgment of the Court of Appeals reversing an order of the District Court which enjoined the City of Emporia, Virginia, from operating a separate and independent but wholly unitary school system after withdrawing from the Greenville County system of which it had been a part. Emporia's withdrawal came after it qualified to become a city with the attendant right to operate its own schools.

The questions presented are (1) whether the city's operation of a unitary school system separate from that of the county would violate the Equal Protection Clause of the Fourteenth Amendment, or (2) whether, even without an independent constitutional violation, the district court, in its supervisory role over the disestablishment of the dual school system in Greenville County, was acting within

To: Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Harlan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2020-03-10 10:00:00

Incubated:

2. circulated: JUN 10 1972

No. 70-188 -- Wright v. Council of the City of Emporia

MR. CHIEF JUSTICE BURGER, dissenting.

If it appeared that the City of Emporia's operation of a separate school system would either perpetuate racial segregation in the schools of the Greenville County area or otherwise frustrate the dismantling of the dual system in that area, I would unhesitatingly join in reversing the judgment of the Court of Appeals and reinstating the judgment of the District Court. However, I do not believe the record supports such findings and I can only conclude that the District Court abused its discretion in preventing Emporia from exercising its lawful right to provide for the education of its own children.

By accepting the District Court's conclusion that Emporia's operation of its own schools would "impede the dismantling of the dual system," the Court necessarily implies that the result of the severance would be something less than unitary schools, and that segregated education would persist in some measure in the classrooms of the Greenville County area. The Court does not articulate the standard by which it reaches this conclusion, and its result far exceeds the contemplation of *Brown v. Board of Education*,

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

CHAMBERS OF
THE CHIEF JUSTICE

June 20, 1972

Re: No. 70-188 - Wright v. Emporia

Memorandum to Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

The following is substituted for the first five lines of
the first full paragraph on page 5 of the typed draft sent to you:

"First, the Court raises the specter of resegregation
resulting from the operation of separate school systems
in the county area but this is no more than speculation
at best. Two reasons are suggested why such"

I trust this is acceptable.

Regards,

WSB

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

March 6, 1972

Dear Chief:

I have talked with Potter Stewart
and would like to assign No. 70-188 - Wright
v. City of Emporia to him.

W. O. D.

The Chief Justice

cc: Conference

8
12
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

May 23, 1972

Dear Potter:

In No. 70-188 - Wright v. Emporia,
please join me in your opinion.

W. O. D.

Mr. Justice Stewart

cc: Conference

*To John, all are
yours, Wm. J. Brennan*

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 23, 1972

RE: No. 70-188 - Wright v. Council of the City
of Emporia, et al.

Dear Potter:

Please join me in your fine opinion in
this case.

Sincerely,



Mr. Justice Stewart

cc: The Conference

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

1st DRAFT

From: Stewart, J.

SUPREME COURT OF THE UNITED STATES ~~REGULATED~~: MAY 22 1972

No. 70-188

Recirculated: _____

Pecola Annette Wright et al.,
Petitioners,
v.
Council of the City of
Emporia et al. } On Writ of Certiorari to
the United States Court
of Appeals for the
Fourth Circuit.

[May —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

We granted certiorari in this case, as in No. 70-130, *United States v. Scotland Neck City Board of Education*,¹ to consider the circumstances under which a federal court may enjoin state or local officials from carving out a new school district from an existing district that has not yet completed the process of dismantling a system of enforced racial segregation. We did not address ourselves to this rather narrow question in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U. S. 1, and its companion cases decided last Term,² but the problem has confronted other federal courts in one form or another on numerous occasions in recent years.³

¹ Together with No. 70-187, *Cotton v. Scotland Neck City Board of Education*.

² The companion cases were *Davis v. Board of School Commissioners*, 402 U. S. 33; *McDaniel v. Barresi*, 402 U. S. 39; *Board of Education v. Swann*, 402 U. S. 43; and *Moore v. Board of Education*, 402 U. S. 47.

³ On the same day that it reversed the District Court orders in this case and Scotland Neck cases, the Court of Appeals for the Fourth Circuit affirmed an order enjoining the creation of a new

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Thurgood Marshall
Mr. Justice White ✓
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

3rd DRAFT

From: Sawyer,

SUPREME COURT OF THE UNITED STATES ^{CIRCUIT}

Circulated:

Recirculated: MAY 24 1972

No. 70-188

Pecola Annette Wright et al.,
Petitioners,
v.
Council of the City of
Emporia et al. } On Writ of Certiorari to
the United States Court
of Appeals for the
Fourth Circuit.

[May —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

We granted certiorari in this case, as in No. 70-130, *United States v. Scotland Neck City Board of Education*,¹ to consider the circumstances under which a federal court may enjoin state or local officials from carving out a new school district from an existing district that has not yet completed the process of dismantling a system of enforced racial segregation. We did not address ourselves to this rather narrow question in *Swann v. Charlotte-Mecklenburg Board of Education*, 402 U. S. 1, and its companion cases decided last Term;² but the problem has confronted other federal courts in one form or another on numerous occasions in recent years.³

¹ Together with No. 70-187, *Cotton v. Scotland Neck City Board of Education*.

² The companion cases were *Davis v. Board of School Commissioners*, 402 U. S. 33; *McDaniel v. Barresi*, 402 U. S. 39; *Board of Education v. Swann*, 402 U. S. 43; and *Moore v. Board of Education*, 402 U. S. 47.

³ On the same day that it reversed the District Court orders in this case and in the Scotland Neck cases, the Court of Appeals for the Fourth Circuit affirmed an order enjoining the creation of a new

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 23, 1972

Re: No. 70-188 - Wright v. Council
of the City of Emporia

Dear Potter:

Please join me in your
opinion in this case.

Sincerely,

Byron

Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 24, 1972

Re: No. 70-188 - Wright v. Emporia

Dear Potter:

Please join me.

Sincerely,

T.M.

Mr. Justice Stewart

cc: Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 19, 1972

Re: No. 70-188 - Wright v. City of Emporia

Dear Chief:

Please join me in your dissent.

Sincerely,

H.A.B.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 20, 1972

Re: No. 70-188 - Wright v. City of Emporia

Dear Chief:

Your proposed substitution for the first five lines in the second full paragraph on page 5 of the typed draft is acceptable to me.

Sincerely,

H. A. B.

The Chief Justice

cc: Mr. Justice Powell ✓
Mr. Justice Rehnquist

March 8, 1972

Re: No. 70-188 Wright v. Emporia

Dear Chief:

Here are my miscellaneous file notes that I prepared for the Conference.

I also enclose copy of memorandum from my clerk on the differences between Scotland Neck and Emporia.

Sincerely,

LFP

The Chief Justice

lfp/ss
Enc.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 20, 1972

Re: No. 70-188 Wright v. Council of the
City of Emporia

Dear Chief:

Please join me in your dissenting opinion.

Sincerely,



The Chief Justice

cc: The Conference

30
Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 19, 1972

Re: No. 70-188 - Wright v. Emporia

Dear Chief:

Please join me in your dissent in this case.

Sincerely,

/s/ W.H.R.

The Chief Justice

Copies to the Conference