

The Burger Court Opinion Writing Database

Adams v. Williams

407 U.S. 143 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

June 6, 1972

No. 70-283 -- Adams v. Williams

Dear Bill:

Please join me.

Regards,

W203

Mr. Justice Rehnquist

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U.S. SUPREME COURT MANUSCRIPT COLLECTION

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

June third
1972

Dear Thurgood:

Re: No. 70-283 - Adams v. Williams

Please join me in your dissent
circulated June second.

W. O. Douglas
William O. Douglas

Mr. Justice Marshall

CC: The Conference

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*Please give me
M*

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice
Mr. Justice

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-283

Circulated: 4-3

Recirculated:

Frederick E. Adams, Warden, } On Writ of Certiorari to
Petitioner, } the United States Court
v. } of Appeals for the Sec-
Robert Williams. } ond Circuit.

[June —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

My views have been stated in substance by Judge Friendly in the Court of Appeals. 436 F. 2d 30, 35. Connecticut allows its citizens to carry weapons, concealed or otherwise, at will provided they have a permit. Conn. Gen. Stat. §§ 29-35, 29-38. Connecticut law gives its police no authority to frisk a person for a permit. Yet the arrest was for illegal possession of a gun. The only basis for that arrest was the informer's tip on the narcotics. Can it be said that a man in possession of narcotics will not have a permit for his gun? Is that why the arrest for possession of a gun in the free-and-easy State of Connecticut becomes constitutional?

The police problem is an acute one not because of the Fourth Amendment, but because of the ease with which anyone can acquire a pistol. A powerful lobby dins into the ears of our citizenry that these gun purchases are constitutional rights protected by the Second Amendment which reads, "A well regulated militia, being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed."

There is under our decisions no reason why stiff state laws governing the purchase and possession of pistols may not be enacted. There is no reason why pistols may not be barred from anyone with a police record. There is no reason why a State may not require a pur-

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SSSPPCNOJ EO ADVI D I N

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Burger
 Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 70-283

Circulate:

Frederick E. Adams, Warden,
 Petitioner,
 v.
 Robert Williams.

On Writ of Certiorari to
 the United States Court
 of Appeals for the Sec-
 ond Circuit.

6/7/72 ✓

[June —, 1972]

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

My views have been stated in substance by Judge Friendly in the Court of Appeals. 436 F. 2d 30, 35. Connecticut allows its citizens to carry weapons, concealed or otherwise, at will provided they have a permit. Conn. Gen. Stat. §§ 29-35, 29-38. Connecticut law gives its police no authority to frisk a person for a permit. Yet the arrest was for illegal possession of a gun. The only basis for that arrest was the informer's tip on the narcotics. Can it be said that a man in possession of narcotics will not have a permit for his gun? Is that why the arrest for possession of a gun in the free-and-easy State of Connecticut becomes constitutional?

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There is under our decisions no reason why stiff state laws governing the purchase and possession of pistols may not be enacted. There is no reason why pistols may not be barred from anyone with a police record.

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

1st DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Related: 6/2/72

No. 70-283

Recirculated: _____

Frederick E. Adams, Warden, } On Writ of Certiorari to
Petitioner, } the United States Court
v. } of Appeals for the Sec-
Robert Williams. } ond Circuit.

[June —, 1972]

MR. JUSTICE BRENNAN, dissenting.

The crucial question on which this case turns, as the Court concedes, is whether, there being no contention that Williams acted voluntarily in rolling down the window of his car, the State had shown sufficient cause to justify Officer Connolly's "forceible" stop. I would affirm, believing, for the following reasons stated by Judge Friendly, 436 F. 2d 38-39, that the State did not make that showing:

"To begin, I have the gravest hesitancy in extending *Terry* to crimes like the possession of narcotics There is too much danger that, instead of the stop being the object and the protective frisk an incident thereto, the reverse will be true. Against that we have here the added fact of the report that Williams had a gun on his person. [Even if] I would follow Mr. Justice Harlan in thinking that 'if the State . . . were to provide that police officers could, on articulable suspicion less than probable cause, forcibly frisk and disarm persons thought to be carrying concealed weapons, . . . action taken pursuant to such authority could be constitutionally reasonable.' *Terry v. Ohio*, 392 U. S., at 31 . . . , the State here has done nothing of the sort. Connecticut allows its citizens to carry weapons, concealed or otherwise, at will, provided only they have a permit,

B
M

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 1, 1972

70-283 - Adams v. Williams

Dear Bill,

I am glad to join your opinion for the Court in this case, with two suggestions:

(1) I would hope that you might consider deleting the first two complete sentences on page 6. I think they do not really add anything to the probable cause finding, and, indeed, even detract from it.

(2) I suggest that the citation of Chimel v. California be deleted at the bottom of page 6, and that there be substituted therefor citations to Carroll v. United States, 267 U.S. 132, and Brinegar v. United States, 338 U.S. 160. My reasons for this suggestion are twofold. First, it is my recollection that the search in this case occurred before the Chimel decision, and we have held that that decision is not retroactive. See Hill v. California, 401 U.S. 797; Williams v. United States, 401 U.S. 646. Secondly, I doubt whether Chimel (which involved an unlawful search of a man's house) would, in any event, be an apposite authority for the lawfulness of the automobile search in this case.

Sincerely yours,

Mr. Justice Rehnquist

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DM

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 1, 1972

Re: No. 70-283 - Adams v. Williams

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

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U.S. SUPREME COURT RECORDS

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-283

Frederick E. Adams, Warden,	}	On Writ of Certiorari to the United States Court of Appeals for the Sec- ond Circuit.
Petitioner,		
v.		
Robert Williams.		

[June —, 1972]

MR. JUSTICE MARSHALL, dissenting.

Four years have passed since we decided *Terry v. Ohio*, 392 U. S. 1 (1968), and its companion cases, *Sibron v. New York* and *Peters v. New York*, 392 U. S. 40 (1968). They were the first cases in which this Court explicitly recognized the concept of “stop and frisk” and squarely held that police officers may, under appropriate circumstances, stop and frisk persons suspected of criminal activity even though there is less than probable cause for an arrest. This case marks our first opportunity to give some flesh to the bones of *Terry et al.* Unfortunately, the flesh provided by today’s decision cannot possibly be made to fit on *Terry*’s skeletal framework.

“[T]he most basic constitutional rule in this area¹⁵ that ‘searches conducted outside the judicial process without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment—subject only to a few specifically established and well-delineated exceptions.’ The exceptions are ‘jealously and carefully drawn,’ and there must be ‘a showing by those who seek exemption . . . that the exigencies of the situation make that course imperative.’ ‘The burden is on those seeking the exemption to show the need for it.’” *Coolidge v. New Hampshire*, 403 U. S. 443, 454-455 (1971). In *Terry* we said that “We do not retreat

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-283

Frederick E. Adams, Warden,	} On Writ of Certiorari to	
Petitioner,		the United States Court
v.		of Appeals for the Sec-
Robert Williams.	} ond Circuit.	

[June —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE DOUGLAS joins, dissenting.

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-283

Frederick E. Adams, Warden,	}	On Writ of Certiorari to the United States Court of Appeals for the Sec- ond Circuit.
Petitioner,		
v.		
Robert Williams.		

[June —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE DOUGLAS joins, dissenting.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 5, 1972

Re: No. 70-283 - Adams v. Williams

Dear Bill:

Please join me in your dissent.

Sincerely,


T.M.

Mr. Justice Douglas

cc: Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 2, 1972

Re: No. 70-283 - Adams v. Williams

Dear Bill:

Please join me.

Sincerely,

H.A.B.

Mr. Justice Rehnquist

cc: The Conference

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U.S. SUPREME COURT

28
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 7, 1972

Re: No. 70-283 Adams v. Williams

Dear Bill:

Please join me.

Sincerely,

L. Powell

Mr. Justice Rehnquist

cc: The Conference

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U.S. DEPARTMENT OF JUSTICE

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To: The Chief Justice
Mr. Justice Douglas
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Mr. Justice Stewart
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Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Rehnquist, J.

No. 70-283

Circulated: 6/1/72

Frederick E. Adams, Warden, } On Writ of Certiorari
Petitioner, } the United States Court
v. } of Appeals for the Sec-
Robert Williams. } ond Circuit.

Circulated: _____

[June —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Respondent Robert Williams was convicted in a Connecticut state court of illegal possession of a handgun found during a "stop and frisk," as well as possession of heroin that was found during a full search incidental to his weapons arrest. After respondent's conviction was affirmed by the Supreme Court of Connecticut, 157 Conn. 114, 249 A. 2d 245 (1968), this Court denied certiorari. 395 U. S. 927 (1969). Williams' petition for federal habeas corpus relief was denied by the District Court and by a divided panel of the Second Circuit, 436 F. 2d 30 (1970), but on rehearing *en banc* the Court of Appeals granted relief. 441 F. 2d 394 (1971). That court held that evidence introduced at Williams' trial had been obtained by an unlawful search of his person and car, and thus the state court judgments of conviction should be set aside. Since we conclude that the policeman's actions here conformed to the standards this Court laid down in *Terry v. Ohio*, 392 U. S. 1 (1968), we reverse.

Police Sgt. John Connolly was alone early in the morning on car patrol duty in a high crime area of Bridgeport, Connecticut. At approximately 2:15 a.m.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 5, 1972

Re: 70-283 - Adams v. Williams

Dear Potter:

Thank you for the suggestions in your memorandum of June 1. Each of your points will be reflected in the next circulation of the proposed opinion.

Sincerely,
WHR

Mr. Justice Stewart

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OFFICE OF THE CLERK OF THE SUPREME COURT

22
p 6

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-283

From: Rehnquist, J.

Frederick E. Adams, Warden, } On Writ of Certiorari to
Petitioner, } the United States Court
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Robert Williams. } ond Circuit.

Circulated: _____
Circulated: 6/7/72

[June —, 1972]

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pp 3-5

Chief Justice
 Mr. Justice Douglas
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Justice Powell

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-283

Rehnquist, J.

Frederick E. Adams, Warden, } On Writ of Certiorari to
 Petitioner, } the United States Court
 v. } of Appeals for the Sec-
 Robert Williams. } ond Circuit.

Circulated: _____
 Dated: 6/8/72

[June —, 1972]

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Police Sgt. John Connolly was alone early in the morning on car patrol duty in a high crime area of Bridgeport, Connecticut. At approximately 2:15 a.m.