

The Burger Court Opinion Writing Database

Reed v. Reed

404 U.S. 71 (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

November 10, 1971

CHAMBERS OF
THE CHIEF JUSTICE

No. 70-4 - Reed v. Reed

MEMORANDUM TO THE CONFERENCE:

Enclosed is proposed disposition of the
above. Suggestions welcome.

Regards,

W.B.B

Wm. Layh
11/10/71

MP

Please You Me

To: Mr. Justice Black
Mr. Justice Douglas
~~Mr. Justice Marlan~~
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

From: The Chief Justice
NOV 10 1971
Circulated:

Recirculated:

No. 70-4 - Reed v. Reed

CHIEF JUSTICE BURGER delivered the opinion of the Court.

Richard Lynn Reed, a minor, died intestate in Ada County, Idaho, on March 29, 1967. His adoptive parents, who had separated sometime prior to his death, are the parties to this appeal. Approximately seven months after Richard's death, his mother, appellant Sally Reed, filed a petition in the Probate Court of Ada County, seeking appointment as administratrix of her son's estate.^{1/} Prior to the date set for a hearing on the mother's petition, appellee Cecil Reed, the father of the decedent, filed a competing petition seeking to have himself appointed administrator of the son's estate. The probate court held a joint hearing on the two petitions and thereafter ordered that letters of administration be issued to appellee Cecil Reed upon his taking the oath and filing the bond required by law. The court treated §§ 15-312 and 15-314 of the Idaho Code as the controlling statutes, and read those sections as compelling a preference for Cecil Reed because he was a male.

^{1/} In her petition, Sally Reed alleged that her son's estate, consisting of a few items of personal property and a small savings account, had an aggregate value of less than \$1,000.

—
Minor stylistic changes throughout

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

REED v. REED, ADMINISTRATOR

APPEAL FROM THE SUPREME COURT OF IDAHO

No. 70-4. Argued October 19, 1971—Decided November 22, 1971

A mandatory provision of the Idaho probate code that gives preference to men over women when persons of the same entitlement class apply for appointment as administrator of a decedent's estate is based solely on a discrimination prohibited by and therefore violative of the Equal Protection Clause of the Fourteenth Amendment.

93 Idaho 511, 465 P. 2d 635, reversed and remanded.

BURGER, C. J., delivered the opinion for a unanimous Court. ~~to: Mr. Justice Black~~
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

From: The Chief Justice

Circulated: NOV 19 1971
Recirculated: _____

to attached
to previous page

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 70-4

Sally M. Reed, Appellant,
v.
Cecil R. Reed, Administrator, Etc. } On Appeal From the Supreme
Court of Idaho.

[November 22, 1971]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

Richard Lynn Reed, a minor, died intestate in Ada County, Idaho, on March 29, 1967. His adoptive parents, who had separated sometime prior to his death, are the parties to this appeal. Approximately seven months after Richard's death, his mother, appellant Sally Reed, filed a petition in the Probate Court of Ada County, seeking appointment as administratrix of her son's estate.¹ Prior to the date set for a hearing on the mother's petition, appellee Cecil Reed, the father of the decedent, filed a competing petition seeking to have himself appointed administrator of the son's estate. The probate court held a joint hearing on the two petitions and thereafter ordered that letters of administration be issued to appellee Cecil Reed upon his taking the oath and filing the bond required by law. The court treated §§ 15-312 and 15-314 of the Idaho Code as the controlling statutes and read those sections as compelling a preference for Cecil Reed because he was a male.

¹ In her petition, Sally Reed alleged that her son's estate, consisting of a few items of personal property and a small savings account, had an aggregate value of less than \$1,000.

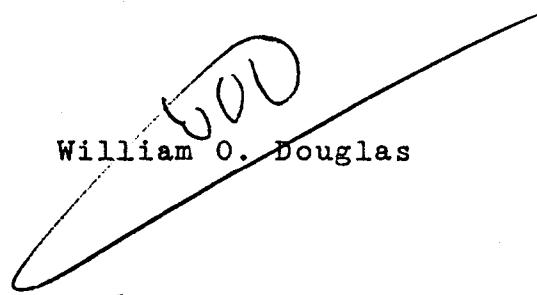
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

November 11, 1971

Dear Chief:

In No. 70-4 - Reed v. Reed,
I join your opinion.


William O. Douglas

The Chief Justice

CC: The Conference

BR

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

November 11, 1971

RE: No. 70-4 - Reed v. Reed

Dear Chief:

I agree.

Sincerely,

Bill

The Chief Justice

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

November 11, 1971

70-4, Reed v. Reed

Dear Chief,

I am glad to join your opinion
for the Court in this case.

Sincerely yours,

P.S.
P.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

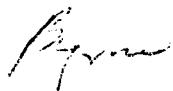
November 12, 1971

Re: No. 70-4 - Reed v. Reed

Dear Chief:

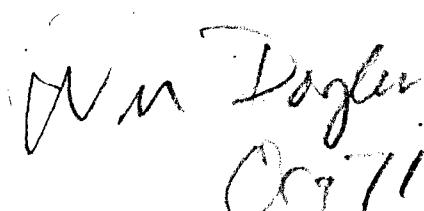
Please join me.

Sincerely,



The Chief Justice

Copies to the Conference



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

*Not being
from Breck*

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

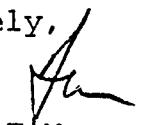
November 11, 1971

Re: No. 70-4 - Reed v. Reed

Dear Chief:

Please join me.

Sincerely,


T.M.

The Chief Justice

cc: The Conference

5R
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 12, 1971

Re: No. 70-4 - Reed v. Reed

Dear Chief:

Please join me.

Sincerely,

H. A. B.

1

The Chief Justice

cc: The Conference