

# The Burger Court Opinion Writing Database

## *Jackson v. Indiana*

406 U.S. 715 (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

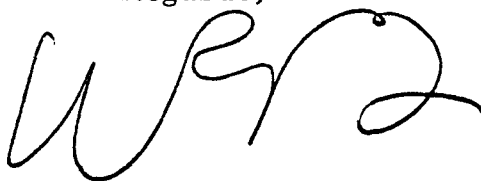
June 5, 1972

Re: No. 70-5009 - Jackson v. Indiana

Dear Harry:

Please join me in your opinion.

Regards,

A handwritten signature in dark ink, appearing to be "WR 2", with a large, stylized "W" and "R" followed by a "2".

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

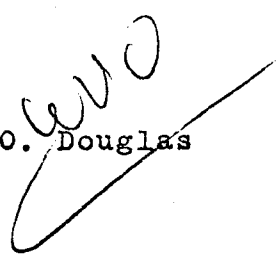
June first  
1972

Dear Harry:

Re: No. 70-5009  
Jackson v. Indiana

Please join me in your opinion.

William O. Douglas



Mr. Justice Blackmun

CC: The Conference

# 70-5009

Supreme Court of the United States

Memorandum

6/7, 1928

Dear Harry

I meant to tell

you that I thought you  
did an outstanding  
job in Jackson

WV

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 31, 1972

RE: No. 70-5009 - Jackson v. Indiana

Dear Harry:

Please join me in your very fine opinion in the above. I do hope that the Indiana Supreme Court takes the hint and gets rid of the criminal charges so that this poor fellow can either be treated or go home.

Sincerely,

*Bill*

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 1, 1972

70-5009 - Jackson v. Indiana

Dear Harry,

I agree with your memorandum in this case, with one minor suggestion:

Since this is a state case, the Eighth and Sixth Amendments of the Constitution are not directly applicable, but their provisions are made applicable only by reason of the Fourteenth Amendment. I would therefore hope that you might consider adding the few words necessary to indicate that fact (pp. 3, 23, 24).

Sincerely yours,

P.S.

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 1, 1972

Re: No. 70-5009 - Jackson v. State  
of Indiana

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Dear Harry:

A most impressive job and I  
join it.

Sincerely,

Byron

Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 5, 1972

Re: No. 70-5009 - Jackson v. Indiana

Dear Harry:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Blackmun

cc: Conference



B  
—  
M

*Please join me*  
M

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

1st DRAFT

From: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

No. 70-5009

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

Theon Jackson, Petitioner, }  
v. } On Writ of Certiorari to the  
State of Indiana. } Supreme Court of Indiana.

[June —, 1972]

MR. JUSTICE BLACKMUN, Memorandum.

We are here concerned with the constitutionality of certain aspects of Indiana's system for pretrial commitment of one accused of crime.

Petitioner, Theon Jackson, is a mentally defective deaf mute with a mental level of a pre-school child. He cannot read, write, or otherwise communicate except through limited sign language. In May 1968, at age 27, he was charged in the Criminal Court of Marion County, Indiana, with separate robberies of two women. The offenses were alleged to have occurred the preceding July. The first involved property (a purse and its contents) of the value of four dollars. The second concerned five dollars in money. The record sheds no light on these charges since, upon receipt of not guilty pleas from Jackson, the trial court set in motion the Indiana procedures for determining his competency to stand trial. Ind. Ann. Stat. § 9-1706a (Supp. 1971),<sup>1</sup> now Ind. Code 35-5-3-2 (1971).

<sup>1</sup> "9-1706a. Commitment before trial—Subsequent actions.—When at any time before the trial of any criminal cause or during the progress thereof and before the final submission of the cause to the court or jury trying the same, the court, either from his own knowledge or upon the suggestion of any person, has reasonable ground for believing the defendant to be insane, he shall immediately fix a time

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STYLISTIC CHANGES

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

From: Blackmun, J.

2nd DRAFT

Circulated: \_\_\_\_\_  
Recirculated: 6/5/72

SUPREME COURT OF THE UNITED STATES

No. 70-5009

Theon Jackson, Petitioner, }  
v. } On Writ of Certiorari to the  
State of Indiana. } Supreme Court of Indiana.

[June —, 1972]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

We are here concerned with the constitutionality of certain aspects of Indiana's system for pretrial commitment of one accused of crime.

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