

# The Burger Court Opinion Writing Database

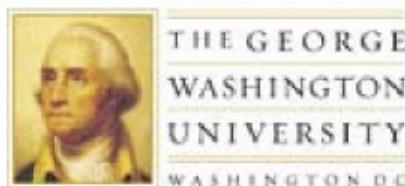
*Haines v. Kerner*

404 U.S. 519 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



*JF*

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

CHAMBERS OF  
THE CHIEF JUSTICE

January 3, 1972

Re: No. 70-5025 - Haines v. Kerner

MEMORANDUM TO THE CONFERENCE:

Enclosed is draft in the above.

It is essentially what I read from a longhand draft at the Conference but with more of the evidence recited to show the need for hearing and the inappropriateness for summary disposition.

Regards,

*WRB*

*6*  
*John R. B. [unclear]*

Please find me  
ref

To: Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall

1st DRAFT

### From: The Author, *Continued*

SUPREME COURT OF THE UNITED STATES.

ATES JAN 2 1972

No. 70-5025

### Recent Publications

Francis Haines, Petitioner,  
v.  
Otto J. Kerner, former  
Governor, State of  
Illinois, et al.

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

[January —, 1972]

PER CURIAM.

Petitioner, an inmate at the Illinois State Penitentiary, Menard, Illinois, commenced this action against the Governor of Illinois and other state officers and prison officials under the Civil Rights Act of 1871, 42 U. S. C. § 1983, and 28 U. S. C. § 1343 (3), seeking to recover damages for claimed injuries and deprivation of rights while incarcerated under a judgment not challenged here. Petitioner's *pro se* complaint was premised on alleged action of prison officials placing him in solitary confinement as a disciplinary measure after he had struck another inmate on the head with a shovel following a verbal altercation. The assault by petitioner on another inmate is not denied. Petitioner's *pro se* complaint included general allegations of physical injuries suffered while in disciplinary confinement and denial of due process in the steps leading to that confinement. The claimed physical suffering was aggravation of a pre-existing foot injury and a circulatory ailment caused by forcing him to sleep on the floor of his cell with only blankets.

The District Court granted respondents' motion under Rule 12 (b)(6) of the Federal Rules of Civil Procedure

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⑩  
Supreme Court of the United States

Washington, D. C. 20543

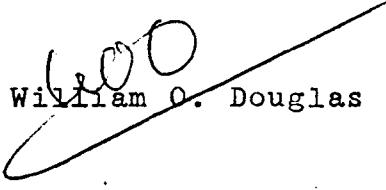
CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

January 4, 1972

Dear Chief:

Re: No. 70-5025 - Haines v. Kerner

Please join me in your Per Curiam.

  
William O. Douglas

The Chief Justice

CC: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

January 3, 1972

RE: No. 70-5025 - Haines v. Kerner

Dear Chief:

I agree.

Sincerely,



The Chief Justice

cc: The Conference

M  
H

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

CHAMBERS OF  
JUSTICE POTTER STEWART

January 3, 1972

70-5025 - Haines v. Kerner

Dear Chief,

I am glad to join the Per Curiam you have circulated today in this case.

Sincerely yours,

P. S.

The Chief Justice

Copies to the Conference

*By*

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 5, 1972

Re: No. 70-5025 - Haines v.  
Kerner

Dear Chief:

Please join me in the per  
curiam you have suggested in this  
case.

Sincerely,

*By*

The Chief Justice

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 5, 1972

Re: No. 70-5025 - Haines v. Kerner

Dear Chief:

Please join me in your per curiam.

Sincerely,

  
T.M.

The Chief Justice

cc: The Conference

B  
M  
CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

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

January 6, 1972

Re: No. 70-5025 - Haines v. Kerner

Dear Chief:

Please join me in your proposed Per  
Curiam.

Sincerely,

*H.A.B.*

The Chief Justice

cc: The Conference