The Burger Court Opinion Writing Database

Papachristou v. Jacksonville

405 U.S. 156 (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

February 15, 1972

Re: No. 70-5030 - Papachristou v. City of Jacksonville

Dear Bill:

Please join me.

Regards,

WEB

Mr. Justice Douglas

cc: The Conference

To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

From: Douglas, J.

Circulated: 1-3

Recirculated:

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70–5030

Margaret Papachristou et al., Petitioners, *v.* City of Jacksonville.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

[January —, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This case involves eight defendants who were convicted in a Florida municipal court of violating a Jacksonville, Florida, vagrancy ordinance.[1] Their convictions, entailing fines and jail sentences (some of which were

[1] Jacksonville Ordinance Code § 26–57 provided at the time of these arrests and convictions as follows:

"Rogues and vagabonds, or dissolute persons who go about begging, common gamblers, persons who use juggling or unlawful games or plays, common drunkards, common night walkers, thieves, pilferers or pickpockets, traders in stolen property, lewd, wanton and lascivious persons, keepers of gambling places, common railers and brawlers, persons wandering or strolling around from place to place without any lawful purpose or object, habitual loafers, disorderly persons, persons neglecting all lawful business and habitually spending their time by frequenting houses of ill fame, gaming houses, or places where alcoholic beverages are sold or served, persons able to work but habitually living upon the earnings of their wives or minor children shall be deemed vagrants and, upon conviction in the Municipal Court shall be punished as provided for Class D offenses."

Class D offenses at the time of these arrests and convictions were punishable by 90 days imprisonment, $500 fine, or both. Jacksonville Ordinance Code § 1–S (1965). The maximum punishment has since been reduced to 75 days or $450. § 304.101 (1971). We are advised that that downward revision was made to avoid federal right-to-counsel decisions. The Fifth Circuit case extending right

6th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70–5030

Margaret Papachristou et al., Petitioners, *v.* City of Jacksonville.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

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Changes throughout
You have proof

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

7th DRAFT

From: D.

Circulated:

Recirculated: 1/11/72

SUPREME COURT OF THE UNITED STATES

No. 70-5030

Margaret Papachristou et al., Petitioners, v. City of Jacksonville. | On Writ of Certiorari to the District Court of Appeal of Florida, First District.

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

11/19

From: Douglas, J.

8th DRAFT

Circulated:

Recirculated: 1-26

SUPREME COURT OF THE UNITED STATES

No. 70-5030

Margaret Papachristou et al., Petitioners, *v.* City of Jacksonville.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 27, 1972

Dear Potter:

In light of your return in No. 70-5030 - Papachristou v. Jacksonville, I revised my opinion to restrict it to a holding on void-for-vagueness.

Would you mind looking at it before I circulate to see if it still has in it any offending material?

W. O. D.

Mr. Justice Stewart

cc: Mr. Justice Brennan
Mr. Justice Marshall

70-5030
Wm. Douglas
Dec 7

not circulated

1/13/72 For Justice Marshall

as per our telephone talk

C O C

1/24/72

You joined
W. O. D. on 1/24

10th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5030

Margaret Papachristou et al., Petitioners, *v.* City of Jacksonville.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

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Dear P attic

This is the version I mentioned on the phone. Then next circulated at C of C 1/24/72

10th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5030

Margaret Papachristou et al., Petitioners, v. City of Jacksonville.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

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Douglas 70-5030 1/24/72

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 28, 1972

Dear Potter:

I have adopted your suggestion in No. 70-5030 - Papachristou v. Jacksonville, and have deleted the last paragraph. You will see the opinion shortly in circulation.

Thank you very much for your help and cooperation.

William O. Douglas

Mr. Justice Stewart

CC: The Conference

BY — Changes throughout

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

11th DRAFT

SUPREME COURT OF THE UNITED STATES

J.

No. 70–5030

Circulated: 1/28/72

Margaret Papachristou et al., Petitioners, *v.* City of Jacksonville.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

[January —, 1972]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

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February 15, 1972

Dear Chief:

Thanks for your suggestion in No. 70-5030 - Papachristou v. Jacksonville. The White-Black matter was an accident which I have corrected.

W. O. D.

The Chief Justice

70-5030
Wm Douglas
Oct 71

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 30, 1971

RE: No. 70-5030 - Papachristou v. City of Jacksonville

Dear Bill:

I think Papachristou is just fine. As I recall it vagueness was the consensus ground at conference. Will the "fundamental rights" approach scare away votes? It keys in so perfectly with my views in the abortion cases that I fervently hope not. Does the possible risk argue for holding up circulation until Harry's Texas case comes around.

One minor quibble. I've always thought the notion that people read criminal statutes before violating them is nonsense. In first full paragraph at page 11, lines 3 to 5, I'd feel more comfortable if it read:

> " and we assume they would have no understanding of their meaning and impact if they read them. "

Sincerely,

Bill

Mr. Justice Douglas

Wm Douglas
Oct '71
70-5038

B

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 31, 1972

RE: No. 70-5030 - Papachristou v. City of Jacksonville

Dear Bill:

I agree.

Sincerely,

Bill

Mr. Justice Douglas

cc: The Conference

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

...ES OF
...TTER STEWART

January 25, 1972

No. 70-5030, Papachristou v. Jacksonville

Dear Bill,

I should appreciate your adding the following at the foot of your opinion in this case:

MR. JUSTICE STEWART joins in that part of the Court's opinion that holds the ordinance before us to be unconstitutionally vague, and on that basis would reverse these convictions.

Sincerely yours,

P.S.

Mr. Justice Douglas

Copies to the Conference

...to-counsel decisions ... that downward ... days or $450. ... the maximum ... both. Jack-

Supreme Court of the United States
Memorandum

----------, 19----

Dear Bill -

I can join this if you take out the last paragraph on page 16. Just also note a typo error on page 13.

P.S.

1/28/72

Dear Potter

This is the version I mentioned on the phone. Thank you for circulating it.

WO

1/24/72

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Douglas
50-7030
Oct 71

B

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 31, 1972

70-5030 - Papachristou v. Jacksonville

Dear Bill,

I am glad to join your opinion for the Court in this case, as recirculated on January 28.

Sincerely yours,

P.S.

Mr. Justice Douglas

Copies to the Conference

February 8, 1972

Re: No. 70-5030 - Papachristou v. City of Jacksonville

Dear Bill:

Please join me in your January 28, 1972, circulation in this case.

Sincerely,

B.R.W.

Mr. Justice Douglas

cc: Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 4, 1972

Re: No. 70-5030 - Papachristou v. Jacksonville

Dear Bill:

Please join me.

Sincerely,

T.M.

Mr. Justice Douglas

cc: The Conference

B

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 9, 1972

Re: No. 70-5030 - Papachristou v. City of Jacksonville

Dear Bill:

Please join me in your circulation of January 28.

Sincerely,

H.A.B.

Mr. Justice Douglas

cc: The Conference