

# The Burger Court Opinion Writing Database

*Lynch v. Household Finance Corp.*  
405 U.S. 538 (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

January 25, 1972

MEMORANDUM TO THE CONFERENCE:

Re: 42 U.S.C. §§ 1983 and 2283, and  
No. 70-5058 - Lynch v. Household Finance Corp.

I enclose a copy of a memo I have had some of my Clerks work up as a "book review" on the memo Potter Stewart circulated December 20, 1971.

I confess I have not come to rest on which of the two memos I think correct but it occurred to me that it might be useful if we exchanged such reactions as may develop.

Regards,

*WFB*

Assigned to P.S.  
You need to reverse "and".  
P.S. W.F.B. W.F.B. - Chief  
P.S. W.F.B. Review w. affixed  
P.S. W.F.B. Review w. affixed

Attached to  
CJ 1/25

MEMO RE: SECTIONS 1983 and 2283

Section 1983 was not intended to be an exception to § 2283. It is respectfully suggested that the conclusions on this issue reached in Part III of the "Harlan" memo circulated by Mr. Justice Stewart do not follow from the comprehensive catalog of factors brought to bear on this issue. Sketched out below is a response to that argument, which leads to the conclusion that § 1983 should not be seen as an express exception to § 2283. In general, there are three important points:

- (1) The "express exception" cases do not support the conclusion that 1983 is similar to the statutes involved in those cases.
- (2) Legislative History does not support the memo's conclusion.
- (3) The reference to the revolution in American federalism -- which truly was accomplished by the 14th Amendment and the Civil Rights Act of 1871 -- does not support the memo's conclusion.

I

The past decisions of this Court do not support the conclusion that 1983 is an exception to it.

By  
you favor  
of

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

CHAMBERS OF  
THE CHIEF JUSTICE

March 10, 1972

Re: No. 70-5058 - Lynch v. Household Finance Corporation

Dear Byron:

Please join me in your dissent as I am now persuaded that the state garnishment process is part and parcel of the state action here, as it is in most states.

Regards,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

February fifth  
1972

Dear Potter:

In No. 70-5058 - Lynch v.  
Household Finance, please join me  
in your opinion.

W.W.D.  
William O. Douglas

Mr. Justice Stewart  
CC: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR. February 7, 1972

RE: No. 70-5058 - Lynch v. Household  
Finance Corporation, et al.

Dear Potter:

I think this is a splendid contribution  
to the resolution of what's been a bother-  
some problem. I am happy to join it.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 20, 1971

MEMORANDUM TO THE CONFERENCE

Re: No. 70-5088, Lynch v. Household Finance Corp.  
No. 70-27, Mitchum v. Foster

This is the memorandum to which I referred at the Conference on Thursday. It strikes me as a very workmanlike and thorough job, and I am persuaded of the correctness of the conclusions it reaches.

*P.S.*  
P.S.

MEMORANDUM TO MR. JUSTICE HARLAN

SUBJECT: Jurisdictional Problems with 42 U.S.C. §1983:

Lynch v. Household Finance Corp., No. 70-5058,  
and Carter v. Stanton, No. 70-5082.

SCOPE OF THE MEMORANDUM

The two above-named cases raise many of the unresolved jurisdictional problems with suits brought in the federal courts under the Civil Rights Act, 42 U.S.C. §1983, and its jurisdictional counterpart, 28 U.S.C. §1343(3), seeking equitable relief. The purpose of this memorandum is to discuss those problems and to apply them to the instant cases.

The first section of this memorandum will deal with the question whether a litigant alleging a deprivation, under color of state law, only of property rights -- as opposed to "personal"

*Very urgent* *allow 10 min* *PS 10/10/71* *Note 1983*

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5058

Circulated:

**Recirculated:**

Dorothy Lynch et al.,  
Appellants,  
*v.*  
Household Finance Corpora-  
tion et al. } On Appeal from the United  
States District Court, Dis-  
trict of Connecticut.

[February —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.<sup>1</sup>

The appellant then brought this class action in a federal district court against Connecticut sheriffs who levy on bank accounts and against creditors who invoke the garnishment statute.<sup>2</sup> Mrs. Lynch alleged

<sup>1</sup> The garnishments are levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

<sup>2</sup> The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

9  
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P. 10 &  
Norma Toro

2nd DRAFT

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

**SUPREME COURT OF THE UNITED STATES**

From: Stewart, J.

No. 70-5058

Circulated: FEB 15 1972

Recirculated:

Dorothy Lynch et al.,  
Appellants,  
v.  
Household Finance Corporation et al.

On Appeal from the United  
States District Court, Dis-  
trict of Connecticut.

[February —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.<sup>1</sup>

The appellant then brought this class action in a federal district court against Connecticut sheriffs who levy on bank accounts and against creditors who invoke the garnishment statute.<sup>2</sup> Mrs. Lynch alleged

<sup>1</sup> The garnishment was levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

<sup>2</sup> The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

6/26  
3rd DRAFT

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

**SUPREME COURT OF THE UNITED STATES**

No. 70-5058

Circulated: \_\_\_\_\_

Recirculated: MAR 8 1972

Dorothy Lynch et al.,  
Appellants,  
v.  
Household Finance Corpora-  
tion et al. } On Appeal from the United  
States District Court, Dis-  
trict of Connecticut.

[February —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.<sup>1</sup>

The appellant then brought this class action in a federal district court against Connecticut sheriffs who levy on bank accounts and against creditors who invoke the garnishment statute.<sup>2</sup> Mrs. Lynch alleged

<sup>1</sup> The garnishment was levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

<sup>2</sup> The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

*CM*  
*P 16-18*

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

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5058

Circulated: \_\_\_\_\_

Recirculated: MAR 15 1972

Dorothy Lynch et al.,  
 Appellants,  
 v.  
 Household Finance Corporation et al. } On Appeal from the United  
 States District Court, Dis-  
 trict of Connecticut.

[March —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

In 1968, the appellant, Mrs. Dorothy Lynch, a resident of New Haven, Connecticut, directed her employer to deposit \$10 of her \$69 weekly wage in a credit union savings account. In 1969, appellee Household Finance Corporation sued Mrs. Lynch for \$525 in a state court, alleging nonpayment of a promissory note. Before she was served with process, the appellee corporation garnished her savings account under the provisions of Connecticut law that authorize summary pre-judicial garnishment at the behest of attorneys for alleged creditors.<sup>1</sup>

The appellant then brought this class action in a federal district court against Connecticut sheriffs who levy on bank accounts and against creditors who invoke the garnishment statute.<sup>2</sup> Mrs. Lynch alleged

<sup>1</sup> The garnishment was levied pursuant to Conn. Gen. Stat. § 52-329. For a further description of Connecticut's statutory garnishment scheme, see Part II of this opinion, *infra*.

<sup>2</sup> The second named appellant, Norma Toro, had her checking account garnished by her former landlord, one Eugene Composano. Subsequently Composano released the garnishment. An issue of

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

CHAMBERS OF  
JUSTICE POTTER STEWART

70  
March 27, 1972

MEMORANDUM TO THE CONFERENCE

Re: No. 70-5080 Weddle v. Director  
No. 70-5395 Roberts v. Harder  
No. 71-766 Carter v. Like

These cases have been held for Lynch v. Household Finance Corp., No. 71-5058. They appear on page 11 of the Conference List for March 31.

Both No. 70-5080, Weddle v. Director, and No. 70-5395, Roberts v. Harder, relied on the narrow view of §1343(3) jurisdiction which was expressly rejected in Lynch. Accordingly, I think both cases should be granted, vacated and remanded for reconsideration in light of Lynch. (A question of mootness is raised in Roberts, but that issue is best left to the lower courts.)

In No. 71-766, Carter v. Like, the CA 8 did not consider the issue decided in Lynch. The CA 8 held that there was §1343(3) jurisdiction. In my view, this holding was correct. This case also presents an issue regarding the authority of the Secretary of HEW to delegate his rule-making functions. I would grant the respondents' motion to proceed in forma pauperis and deny certiorari.

Q3  
P.S.

*D* *W*  
To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Black  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: White, J.

No. 70-5058

Circulated: 3-9-72

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

Dorothy Lynch et al.,  
Appellants, | On Appeal from the United  
v. | States District Court, Dis-  
Household Finance Corpo- | trict of Connecticut.  
ration et al. |

[March —, 1972]

MR. JUSTICE WHITE, dissenting.

I agree with the Court that federal jurisdiction under 28 U. S. C. § 1343 is not limited to the adjudication of property rights and if the disposition of this case turned solely on that issue I would without reservation join in the majority opinion. But I cannot agree either with the approach which the majority takes to the anti-injunction statute, 28 U. S. C. § 2283, or its conclusion that the statute does not bar this suit. I do not mean to suggest that appellants' due process attack on the Connecticut garnishment statute is not substantial. It *obviously is.* *Sniadach v. Family Finance Corp.*, 395 U. S. 337 (1969). Nevertheless, in my view, appellants should be required to press their constitutional attack in the state courts.

In Connecticut garnishment or attachment is one method of beginning a lawsuit. Conn. Gen. Stat. § 52-329; 1 Stephenson, Connecticut Civil Procedure 156-157, 232-237 (1970). Of course, the requisite personal service upon a defendant is necessary to obtain *in personam* jurisdiction, Conn. Gen. Stat. § 52-54, as well as to secure an effective garnishment. Stephenson, at 244, but as a matter of right in certain kinds of civil actions a plaintiff may simultaneously garnish a defendant's bank account and serve a summons upon the defendant,

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: White, J.

No. 70-5058

Circulated: \_\_\_\_\_

Dorothy Lynch et al.,  
Appellants,  
v.  
Household Finance Corpora-  
tion et al.

On Appeal from the United  
States District Court, Dis-  
trict of Connecticut.

Recirculated: 3-14-72

[March —, 1972]

MR. JUSTICE WHITE, with whom THE CHIEF JUSTICE  
and MR. JUSTICE BLACKMUN join, dissenting.

I agree with the Court that federal jurisdiction under 28 U. S. C. § 1343 is not limited to the adjudication of personal rights and if the disposition of this case turned solely on that issue I would without reservation join in the majority opinion. But I cannot agree either with the approach which the majority takes to the anti-injunction statute, 28 U. S. C. § 2283, or its conclusion that the statute does not bar this suit. I do not mean to suggest that appellants' due process attack on the Connecticut garnishment statute is not substantial. It obviously is. *Sniadach v. Family Finance Corp.*, 395 U. S. 337 (1969). Nevertheless, in my view, appellants should be required to press their constitutional attack in the state courts.

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 8, 1972

Re: No. 70-5058 - Lynch v. Household Finance

Dear Potter:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Stewart

cc: The Conference

*BTM*

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

— CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

March 13, 1972

Re: No. 70-5058 - Lynch v. Household Finance Corp.

Dear Byron:

Please join me in your dissent.

As one who practiced for a quarter of a century under a garnishment system somewhat like that of Connecticut, I am not persuaded that it is not, to use your phrase, "part and parcel of a state court proceeding now under way."

I suppose there is no reason to hold this case for No. 70-27, Mitchum v. Foster.

Sincerely,

*H.A.B.*

Mr. Justice White

cc: The Conference