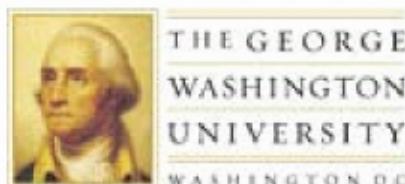


# The Burger Court Opinion Writing Database

*Jefferson v. Hackney*  
406 U.S. 535 (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

May 29, 1972

Re: No. 70-5065 - Jefferson v. Hackney

Dear Bill:

Please join me in the above opinion.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

March 30, 1972

MEMORANDUM TO THE CONFERENCE:

In No. 70-5064 - Jefferson v. Hackney, I will in due course write a dissent.

*W. O. Douglas*  
William O. Douglas

Tele  
Cec  
4-11

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Ruth J. Jefferson et al.,  
Appellants,  
v.  
Burton G. Hackney et al. } On Appeal from the United  
States District Court for  
the Northern District of  
Texas.

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

I would read the Act more generously than does the Court. It is stipulated that 86% of those receiving AFDC aid are Blacks or Chicanos. I would therefore read the Act against the background of rank discrimination against the Blacks and the Chicanos and in light of the fact that Chicanos in Texas fare even more poorly than the Blacks. I would not read the Act with the prejudice that is prevalent against AFDC because the program nourishes many illegitimate children. It is stipulated that approximately one child in four receiving AFDC aid is illegitimate. They are, after all, part of our community and many will be eligible for drafting for overseas wars in the future. And like the halt, the lame, the blind and the elderly, they have real "need" in the statutory sense. In *Rosado v. Wyman*, 397 U. S. 397, 413, we said that in administering such a program a State "may not obscure the actual standard of need." Texas does precisely that by manipulating a mathematical formula.

In *Rosado*, we described how some States establish upper limits or maximums of aid, while others, like Texas, "curtail the payments of benefits by a system of 'ratable reductions' whereby all recipients will receive a fixed percentage of the standard of need." *Id.*, at 409. Then in footnote 13 we described what that meant: "A

Wm. J. Douglas  
4-11

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Ruth J. Jefferson et al., Appellants. v. Burton G. Hackney et al. On Appeal from the United States District Court for the Northern District of Texas.

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

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To: The Chief Justice

Month	Mean Rainfall (mm)
January	120
February	150
March	180
April	200
May	220
June	250
July	280
August	300
September	280
October	250
November	220
December	200

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Ruth J. Jefferson et al. } On Appeal from the United  
Appellants. } States District Court for  
v. } the Northern District of  
Burton G. Hackney et al. } Texas.

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

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new  
4-2

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Ruth J. Jefferson et al.,  
Appellants,  
v.  
Burton G. Hackney et al. } On Appeal from the United  
States District Court for  
the Northern District of  
Texas.

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

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Wm. Douglas  
4-2

8. 11

To: The Clerk, Supreme Court

6th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Case No. 4-28

Ruth J. Jefferson et al., Appellants, v. Burton G. Hackney et al.,

On Appeal from the United States District Court for the Northern District of Texas.

[April 1, 1972]

MR. JUSTICE DOUGLAS, dissenting.

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Rec'd  
5/5/72

7th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Ruth J. Jefferson et al.,  
Appellants, } On Appeal from the United  
v. } States District Court for  
Burton G. Hackney et al. } the Northern District of  
Texas.

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

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8th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Circulate:

Ruth J. Jefferson et al. | On Appeal ~~from the United~~ |  
Appellants. | States District Court for |  
v. | the Northern District of |  
Burton G. Hackney et al. | Texas. |

[April —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 20, 1972

RE: No. 70-5064 - Jefferson v. Hackney

Dear Thurgood:

Please join me in your dissent in the  
above.

Sincerely,

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

April 28, 1972

RE: No. 70-5064 - Jefferson v. Hackney

Dear Bill:

Would you please add the following  
at the foot of your dissent in the above:

"Mr. Justice Brennan joins Part I  
of this dissenting opinion.

Sincerely,

Mr. Justice Douglas

cc: The Conference



2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

From: Rehnquist, C.

Circulated: 3/29/72

Ruth J. Jefferson et al., On Appeal from the United  
Appellants, States District Court for the  
v. the Northern District of  
Burton G. Hackney et al. Texas.

[April —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Appellants in this case challenge certain computation procedures which the State of Texas uses in its federally assisted welfare program. Believing that neither the Constitution nor the federal welfare statute prohibits the State from adopting these policies, we affirm the judgment of the three-judge court below upholding the state procedures.

I

Appellants are Texas recipients of Aid to Families with Dependent Children (AFDC). They brought two class actions, which were consolidated in the United States District Court for the Northern District of Texas, seeking injunctive and declaratory relief against state welfare officials. A three-judge court was convened pursuant to 28 U. S. C. § 2281.

The Texas State Constitution provides a ceiling on the amount the State can spend on welfare assistance grants.<sup>1</sup>

<sup>1</sup> Originally, the Texas Constitution prohibited all welfare programs. Section 51 of Art. III of the Constitution provided that the legislature "shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatso-

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 7, 1972

MEMORANDUM TO THE CONFERENCE

I have joined Mr. Justice Rehnquist in  
No. 70-5064 - Jefferson v. Hackney.

B.R.W.

B

To: The Chief Justice  
Mr. Justice Douglas *X*  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J. Circulated: *4/18/72*

No. 70-5064

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

Ruth J. Jefferson et al. On Appeal from the United  
Appellants, States District Court for  
v. the Northern District of  
Burton G. Hackney et al. Texas.

[April —, 1972]

MR. JUSTICE MARSHALL, dissenting.

Appellants, recipients of Aid to Families with Dependent Children (AFDC) in Texas, brought this action to challenge two distinct aspects of the Texas AFDC program. First, appellants challenge the manner in which Texas arrives at the amount it will pay to persons who are needy. Second, they urge that Texas acts illegally in providing more money for persons receiving aid under other social welfare legislation than for persons receiving AFDC aid. The Court rejects both claims. I dissent.

Before proceeding to explain why I disagree with the Court, I would like to illustrate what the disputes in this case are all about. Using the same figures as the Court uses in footnote 6 of its opinion, it is apparent that two families with equal need and with the same outside income receive different AFDC payments depending on the method of computation used by a State in allocating funds. There are two alternatives available to any State which either does not want to establish or cannot afford to establish a level of AFDC payments to meet all the needs of all recipients, and which chooses instead to use a percentage reduction factor as a method of reducing payments in a somewhat equitable manner. There is the Texas system in which the percentage reduction factor is applied against the standard of need before outside

Wm. Douglas April 18

70-5064 -

Justice does not compute

2nd DRAFT

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

SUPREME COURT OF THE UNITED STATES From: Marshall, J.

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

No. 70-5064

Recirculated: 4-25

Ruth J. Jefferson et al. v. Burton G. Hackney et al. On Appeal from the United States District Court for the Northern District of Texas.

[April —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, dissenting. /

Appellants, recipients of Aid to Families with Dependent Children (AFDC) in Texas, brought this action to challenge two distinct aspects of the Texas AFDC program. First, appellants challenge the manner in which Texas arrives at the amount it will pay to persons who are needy. Second, they urge that Texas acts illegally in providing more money for persons receiving aid under other social welfare legislation than for persons receiving AFDC aid. The Court rejects both claims. I dissent.

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Wm. L. Smith Oct 11 1861

Land in the north of the country.

3  
9/17/18

3rd DRAFT

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

From: Marshall, J.

Circulated:

No. 70-5064

Recirculated: APR 28 1972

SUPREME COURT OF THE UNITED STATES

Ruth J. Jefferson et al., On Appeal from the United  
Appellants, States District Court for  
v. the Northern District of  
Burton G. Hackney et al. Texas.

[April —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, dissenting.

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Wm. Douglas Oct 71 No. 5064  
U.S. Supreme Court Library

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Ruth J. Jefferson et al., On Appeal from the United  
Appellants, } States District Court for  
v. } the Northern District of  
Burton G. Hackney et al. Texas.

[April —, 1972]

MR. JUSTICE MARSHALL, with whom MR. JUSTICE BRENNAN joins, dissenting.

Appellants, recipients of Aid to Families with Dependent Children (AFDC) in Texas, brought this action to challenge two distinct aspects of the Texas AFDC program. First, appellants challenge the manner in which Texas arrives at the amount it will pay to persons who are needy. Second, they urge that Texas acts illegally in providing more money for persons receiving aid under other social welfare legislation than for persons receiving AFDC aid. The Court rejects both claims. I dissent.

Before proceeding to explain why I disagree with the Court, I would like to illustrate what the disputes in this case are all about. If a State is unable or unwilling to establish a level of AFDC payments to meet all the needs of all recipients, federal law permits the State to use a percentage reduction factor as a method of reducing payments in a somewhat equitable manner. Texas has adopted a system in which the percentage reduction factor is applied against the standard of need before outside income is deducted. Appellants contend that federal law requires the State to deduct outside income before the percentage reduction factor is applied. While describing the differences between the two alternatives is a herculean task, the figures themselves are not diffi-

*3*  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

March 31, 1972

Re: No. 70-5064 - Jefferson v. Hackney

Dear Bill:

Unless I am persuaded otherwise by any forthcoming dissent, I am pleased to join the opinion you have prepared for this case.

Sincerely,

*HAB.*

Mr. Justice Rehnquist

cc: The Conference

(3)

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 25, 1972

Re: No. 70-5064 Jefferson v. Hackney

Dear Bill:

Please join me in your opinion for the Court.

Sincerely,

Mr. Justice Rehnquist

cc: The Conference

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 70-5064

From: Rehnquist, J.

Ruth J. Jefferson et al., } On Appeal from the ~~United~~: 3/29/72  
Appellants, } States District Court for  
v. } the Northern District of ~~Reciprocated~~:  
Burton G. Hackney et al. } Texas.

[April —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Appellants in this case challenge certain computation procedures which the State of Texas uses in its federally assisted welfare program. Believing that neither the Constitution nor the federal welfare statute prohibits the State from adopting these policies, we affirm the judgment of the three-judge court below upholding the state procedures.

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Appellants are Texas recipients of Aid to Families with Dependent Children (AFDC). They brought two class actions, which were consolidated in the United States District Court for the Northern District of Texas, seeking injunctive and declaratory relief against state welfare officials. A three-judge court was convened pursuant to 28 U. S. C. § 2281.

The Texas State Constitution provides a ceiling on the amount the State can spend on welfare assistance grants.<sup>1</sup>

<sup>1</sup> Originally, the Texas Constitution prohibited all welfare programs. Section 51 of Art. III of the Constitution provided that the legislature "shall have no power to make any grant or authorize the making of any grant of public moneys to any individual, association of individuals, municipal or other corporations whatso-

B

pp 8, 9, 11-13, 14-15  
stylistic changes  
throughout

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

3rd DRAFT

To: Rehnquist, J.

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

No. 70-5064

Recirculated: 4/26/72

SUPREME COURT OF THE UNITED STATES

Ruth J. Jefferson et al., On Appeal from the United  
Appellants, States District Court for  
v. the Northern District of  
Burton G. Hackney et al. Texas.

[April —, 1972]

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Wm. Rehnquist  
4/26/72  
40-5064

B

4, 9, 14

4th DRAFT

For The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell

## SUPREME COURT OF THE UNITED STATES

No. 70-5064

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

Ruth J. Jefferson et al., On Appeal from the United  
Appellants, States District Court for  
v. the Northern District of  
Burton G. Hackney et al. Texas.

Recirculated: 5/10/72

[April —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

Appellants in this case challenge certain computation procedures which the State of Texas uses in its federally assisted welfare program. Believing that neither the Constitution nor the federal welfare statute prohibits the State from adopting these policies, we affirm the judgment of the three-judge court below upholding the state procedures.

### I

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Wm. Dugay, Jr. 11

70-5064

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5064

Argued:

Ruth J. Jefferson et al. } On Appeal from the United States District Court for  
Appellants, } the Northern District of  
v. } Texas.  
Burton G. Hackney et al.

[April —, 1972]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 1, 1972

MEMORANDUM TO THE CONFERENCE

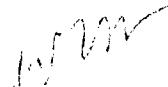
I have reviewed the two cases that were held for our decision in Jefferson v. Hackney, 70-5064. These cases appear on page 10 of the Conference List for June 5.

In Hall v. Villa, 71-982, the California Supreme Court struck down the state's system of subtracting outside income from its maximum grant, rather than from the recipient's unadjusted standard of need. The case is virtually identical to the issue decided in Part II of Jefferson, except that one case involves a percentage reduction system, whereas the other involves maximum grants. Since the effects under both systems are essentially the same, I would recommend that this case be vacated and remanded for reconsideration in light of Jefferson.

Goodwin v. Wyman, 71-5647, is an appeal from a three-judge decision upholding the New York system of paying 100% of need to the aged, but only 90% to AFDC recipients. The showing of irrationality and racial discrimination here --

both as to purpose and effects -- is somewhat weaker than in Jefferson. Accordingly, I believe this case should be affirmed.

Sincerely,

A handwritten signature consisting of stylized initials and a surname.

W.H.R.