

The Burger Court Opinion Writing Database

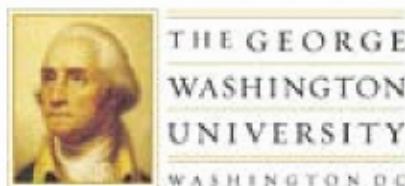
Grayned v. City of Rockford

408 U.S. 104 (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

June 15, 1972

No. 70-5106 -- Grayned v. City of Rockford

Dear Thurgood:

Please join me in the above case. I have an impression that I have previously joined you, but I cannot put my finger to the carbon. In any event, let this fill any deficiencies.

Regards,

W.B

Mr. Justice Marshall

Copies to Conference

J. C. C.
6-12

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5106

Richard Grayned, Appellant,
v.
City of Rockford. } On Appeal from the Su-
preme Court of Illinois.

[June —, 1972]

MR. JUSTICE DOUGLAS, dissenting.

The municipal ordinance on which this case turns is § 19.2 (a) which provides in relevant part:

"That no person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order of such school session or class thereof."

Appellant was one of 200 people picketing a school and carrying signs promoting a Black cause—"Black cheerleaders, too," "Black history with black teachers," "We want our rights" and the like.

The picketers were mostly students; but they included former students, parents of students, and concerned citizens. They had made proposals to the school board on their demands and were turned down. Hence the picketing. The picketing was mostly by black students who were counselled and advised by a faculty member of the school. The school contained 1,800 students. Those counselling the students advised they must be quiet, walk hand in hand, no whispering, no talking.

Twenty-five policemen were stationed nearby. There was noise but most of it was produced by the police who used loudspeakers to explain the local ordinance and to announce that arrests might be made. The picketing

3rd DRAFT
chase

To : The Chief Justice
Mr. Justice Black
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice McNeilan
Mr. Justice Powell
Mr. Justice Rehnquist

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

Circulate:

No. 70-5106

Recirculated: 6/3/72

Richard Grayned, Appellant,
v.
City of Rockford. } On Appeal from the Supreme Court of Illinois.

[June —, 1972]

MR. JUSTICE DOUGLAS, dissenting in part.

While I join Part I of the Court's opinion, I would also reverse the appellant's conviction under the antinoise ordinance.

The municipal ordinance on which this case turns is § 19.2 (a) which provides in relevant part:

"That no person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order of such school session or class thereof."

Appellant was one of 200 people picketing a school and carrying signs promoting a Black cause—"Black cheerleaders, to cheer too," "Black history with black teachers," "We want our rights" and the like. Appellant, however, did not himself carry a picket sign. There was no evidence that he yelled or made any noise whatsoever. Indeed, the evidence reveals that appellant simply marched quietly and on one occasion raised his arm in the "power to the people" salute.

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R. C.
6/15/72

Rey

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

June 15, 1972

Dear Thurgood:

Would you please announce the fact
that I am dissenting in No. 70-5106 - Grayned
v. City of Rockford?

W. O. D.

Mr. Justice Marshall

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

June 19, 1972

Re: No. 70-5106 - GRAYNED v. ROCKFORD

Dear Mr. Chief Justice:

Mr. Justice Douglas requested that the above case be held over a week before being handed down because he intends to make further changes to his dissenting opinion.

Fay Aull
Fay Aull
Secretary

The Chief Justice

CC: The Conference

June 21, 1972

Dear Thurgood:

I apparently have a very inefficient office staff. My opinions were all supposed to be sent out on June 13, and most of them came except my dissent in No. 70-5106 - Grayned v. City of Sacramento.

When came your new circulation with a new Footnote 1 that says I was inaccurate in my dissent. It took three telephone calls for me to get my dissent out of my office to me at Goose Prairie. It arrived 15 minutes ago but nothing came with it -- not the record -- not the briefs -- nothing I would need to revise my dissent.

I hate to hold you up, but I would like to have a chance to answer or at least to comment on what you say in Footnote 1. If you want to disseminate Footnote 1, go ahead and get your opinion down and with it my dissent in its present form. Just as you went to my Footnote 1, I am going to have to ask that the case be over until the first of the week so that I can file the briefs and records out here as they are what I need to examine the points you raised in Footnote 1.

I apologize. I am sorry. But that is all I can say.

William O. Douglas

Mr. Justice Marshall

Oct 11 1972
Mr. Marshall
1000

To : Mr. Allard Justice
Mr. Justice Branaman
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Frankfurter
Mr. Justice Rehnquist

SUPREME COURT OF THE UNITED STATES

Douglas; J.

Circulate:

No. 70-5106

6-25-72

Richard Grayned, Appellant,
v.
City of Rockford. } On Appeal from the Supreme Court of Illinois.

[June 26, 1972]

MR. JUSTICE DOUGLAS, dissenting in part.

While I join Part I of the Court's opinion, I would also reverse the appellant's conviction under the antinoise ordinance.

The municipal ordinance on which this case turns is § 19.2 (a) which provides in relevant part:

"That no person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace or good order of such school session or class thereof."

Appellant was one of 200 people picketing a school and carrying signs promoting a Black cause—"Black cheerleaders to cheer too." "Black history with black teachers." "We want our rights" and the like. Appellant, however, did not himself carry a picket sign. There was no evidence that he yelled or made any noise whatsoever. Indeed, the evidence reveals that appellant simply marched quietly and on one occasion raised his arm in the "power to the people" salute.

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(2)

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 14, 1972

RE: No. 70-5106 - Grayned v. City of Rockford

Dear Thurgood:

I agree.

Sincerely,



Mr. Justice Marshall

cc: The Conference

By [initials]
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

June 13, 1972

70-5106 - Grayned v. Rockford

Dear Thurgood,

I am glad to join your opinion for
the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Marshall

Copies to the Conference

(P)

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 13, 1972

Re: No. 70-5106 - Grayned v. City
of Rockford

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to Conference

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5106

Richard Grayned, Appellant,
v.
City of Rockford. } On Appeal from the Su-
} preme Court of Illinois.

[June —, 1972]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Appellant Richard Grayned was convicted for his part in a demonstration in front of West Senior High School in Rockford, Illinois. Negro students at the school had presented their grievances to school administrators, who then gave an unsatisfactory response. At that point, a more public demonstration of protest was planned. On April 25, 1969, approximately 200 people—students, their family members, and friends—gathered next to the school grounds. Appellant, whose brother and twin sisters were attending the school, was part of this group. The demonstrators marched around on a sidewalk about 100 feet from the school building, which was set back from the street. Many carried signs which summarized the grievances: "Black cheerleaders to cheer too"; "Black history with black teachers"; "Equal rights, Negro counselors." Others, without placards, made the "power to the people" sign with their upraised and clenched fists.

In other respects, the evidence at appellant's trial was sharply contradictory. Government witnesses reported that the demonstrators repeatedly cheered, chanted, baited policemen, and made other noise that was audible in the school; that hundreds of students

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-5106

Richard Grayned, Appellant,
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City of Rockford. } On Appeal from the Su-
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[June —, 1972]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Appellant Richard Grayned was convicted for his part in a demonstration in front of West Senior High School in Rockford, Illinois. Negro students at the school had first presented their grievances to school administrators. When the principal took no action on crucial complaints, a more public demonstration of protest was planned. On April 25, 1969, approximately 200 people—students, their family members, and friends—gathered next to the school grounds. Appellant, whose brother and twin sisters were attending the school, was part of this group. The demonstrators marched around on a sidewalk about 100 feet from the school building, which was set back from the street. Many carried signs which summarized the grievances: "Black cheerleaders to cheer too"; "Black history with black teachers"; "Equal rights, Negro counselors." Others, without placards, made the "power to the people" sign with their upraised and clenched fists.

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9, 18

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: JUN 16 1972

SUPREME COURT OF THE UNITED STATES

No. 70-5106

Recirculated: _____

Richard Grayned, Appellant,
v.
City of Rockford. } On Appeal from the Su-
preme Court of Illinois.

[June 19, 1972]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Appellant Richard Grayned was convicted for his part in a demonstration in front of West Senior High School in Rockford, Illinois. Negro students at the school had first presented their grievances to school administrators. When the principal took no action on crucial complaints, a more public demonstration of protest was planned. On April 25, 1969, approximately 200 people—students, their family members, and friends—gathered next to the school grounds. Appellant, whose brother and twin sisters were attending the school, was part of this group. The demonstrators marched around on a sidewalk about 100 feet from the school building, which was set back from the street. Many carried signs which summarized the grievances: "Black cheerleaders to cheer too"; "Black history with black teachers"; "Equal rights, Negro counselors." Others, without placards, made the "power to the people" sign with their upraised and clenched fists.

In other respects, the evidence at appellant's trial was sharply contradictory. Government witnesses reported that the demonstrators repeatedly cheered, chanted, baited policemen, and made other noise that was audible in the school; that hundreds of students were distracted from their school activities and lined

*W.A. Brown
D.C. 7/1*

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 14, 1972

Re: No. 70-5106 - Grayned v. City of Rockford

Dear Thurgood:

Will you please note at the end of your opinion something along the following lines:

"Mr. Justice Blackmun joins in the judgment and in Part I of the opinion of the Court. He concurs in the result as to Part II of the opinion."

With the half victory for the appellant, I suppose we shall be confronted with a question of costs. I do not know whether we should consider this now, so that it will not be delayed over the summer. In any event, I shall be guided by your recommendation as to this.

Sincerely,

H. A. B.

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 14, 1972

Re: No. 70-5106 Grayned v. City of Rockford

Dear Thurgood:

Please join me.

Sincerely,

Lewis

Mr. Justice Marshall

cc: The Conference

DR
Supreme Court of the United States
Washington, D. C. 20542

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 14, 1972

Re: No. 70-5106 - Grayned v. City of Rockford

Dear Thurgood:

Please join me.

Sincerely,

W.W.

Mr. Justice Marshall

Copies to the Conference