

The Burger Court Opinion Writing Database

Younger v. Gilmore

404 U.S. 15 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



CHAMBERS OF
THE CHIEF JUSTICE

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

November 1, 1971

Re: No. 70-9 - Younger v. Gilmore

Dear Thurgood:

I have grave doubts about the utility of law books in prisons without lawyers and I seriously doubt the federal authority to order what the three-judge court has ordered. However, since this is in a sense "experimental," I think the less said by me the better, so I will say nothing and concur in your disposition.

What is needed, as a matter of sound policy, but not as a constitutional matter, is to have a "circuit riding" legal aid system. In the long run I believe it would reduce prisoner petitions and contribute to prisoner morale.

Regards,

WBJ

Mr. Justice Marshall

cc: The Conference

*all others
have joined*

*Ready
Friday Conference
11/5
8-0*

October 7, 1971

Dear Chief:

In No. 70-9, the request is made for the appointment of John E. Wahl as lawyer for the indigent.

I have just talked with Judge Wollenberg in San Francisco. He knows Mr. Wahl and says he is a man of good character and enjoys a good reputation.

W. O. D.

The Chief Justice

Wm Doyle
Oct 7/71

70-9 ✓

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

October 19, 1971

Dear Thurgood:

In No. 70-9 - Lynch v. Gilmore,
I agree with your per curiam of
October 18.

W O D
William O. Douglas

Mr. Justice Marshall

13

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 26, 1971

*Don't know
what you
call
10/31/*

MEMORANDUM TO THE CONFERENCE

Re: No. 70-9 - Thomas C. Lynch, et al., v.
Robert O. Gilmore, Jr., et al.

Here is a revised suggested disposal
of the subject case:

PER CURIAM. On this appeal we postponed the
question of jurisdiction pending the hearing
of the case on the merits. 401 U.S. 906 (1971).

Having heard the case on its merits we find
that this Court does have jurisdiction
(Alabama Teachers v. Alabama Public School
and College Authority, 393 U.S. 400 (1969))
and affirm the judgment of the District Court
of the Northern District of California. John-
son v. Avery, 393 U.S. 483 (1969).

T.M.
T.M.

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

No. 70-9

Circulated: _____

Recirculated: NOV 5 1971

Evelle J. Younger et al.,
Appellants,
v.
Robert O. Gilmore, Jr.,
et al. } On Appeal from the United
States District Court for
the Northern District of
California.

[November 8, 1971]

PER CURIAM.

On this appeal we postponed the question of jurisdiction pending the hearing of the case on the merits. 401 U. S. 906 (1971).

Having heard the case on its merits, we find that this Court does have jurisdiction (*Alabama Teachers v. Alabama Public School and College Authority*, 393 U. S. 400 (1969)) and affirm the judgment of the District Court of the Northern District of California. *Johnson v. Avery*, 393 U. S. 483 (1969).

James
ceW

67
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

October 19, 1971

RE: No. 70-9 - Thomas C. Lynch, et al. v.
Robert O. Gilmore, Jr.

Dear Thurgood:

I agree with your suggested disposal
of the above case.

Sincerely,

Bal

Mr. Justice Marshall

cc: The Conference

6P
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. October 27, 1971

RE: No. 70-9 - Lynch v. Gilmore

Dear Thurgood:

I agree with the Per Curiam you
have prepared in the above case.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

October 18, 1971

No. 70-9 -- Lynch v. Gilmore

Dear Thurgood,

I think the approach you suggest to this case is a very wise one. My only additional thought is that it might be well to specify in a few sentences the basis for our original doubt about jurisdiction and for our ultimate conclusion that jurisdiction exists.

Sincerely yours,

P.S.
1.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

October 27, 1971

No. 70-9, Lynch v. Gilmore

Dear Thurgood,

I am glad to join your Per Curiam
in this case, as recirculated yesterday.

Sincerely yours,

P.S.
✓

Mr. Justice Marshall

Copies to the Conference

7A

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

October 27, 1971

Re: No. 70-9 - Lynch v. Gilmore

Dear Thurgood:

Please join me.

Sincerely,

Byron

Mr. Justice Marshall

Copy to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 18, 1971

MEMORANDUM TO THE CONFERENCE

Re: 70-9 - Thomas C. Lynch, et al., v.
Robert O. Gilmore, Jr., et al.

Here is a suggested disposal of the
above case.

PER CURIAM. On this appeal we postponed the
question of jurisdiction pending the hearing
of the case on the merits. 401 U.S. 906 (1971).

Having heard the case on its merits we find
that this Court does have jurisdiction and
affirm the judgment of the District Court of
the Northern District of California. Johnson v.
Avery, 393 U.S. 483 (1969).


T.M.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 26, 1971

MEMORANDUM TO THE CONFERENCE

Re: No. 70-9 - Thomas C. Lynch, et al., v.
Robert O. Gilmore, Jr., et al.

Here is a revised suggested disposal
of the subject case:

PER CURIAM. On this appeal we postponed the
question of jurisdiction pending the hearing
of the case on the merits. 401 U.S. 906 (1971).

Having heard the case on its merits we find
that this Court does have jurisdiction
(Alabama Teachers v. Alabama Public School
and College Authority, 393 U.S. 400 (1969))
and affirm the judgment of the District Court
of the Northern District of California. John-
son v. Avery, 393 U.S. 483 (1969).


T.M.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

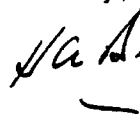
October 25, 1971

Re: No. 70-9 - Younger v. Gilmore

Dear Thurgood:

I am ready to agree with your suggested disposal of this case. I share, however, the suggestion Potter made in the second sentence of his letter of October 18 to you.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

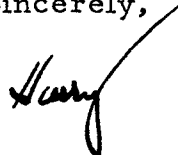
October 28, 1971

Re: No. 70-9 - Younger v. Gilmore

Dear Thurgood:

I join your Per Curiam as recirculated on
October 18.

Sincerely,



Mr. Justice Marshall