

The Burger Court Opinion Writing Database

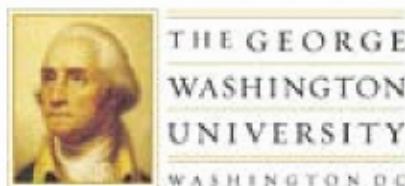
Ward v. Monroeville

409 U.S. 57 (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 14, 1972

Re: No. 71-496 - Ward v. Village of Monroeville, Ohio

Dear Bill:

Please join me.

Regards,

WSB

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

December 28, 1971

Dear Bill:

Please join me in your Per
Curiam in No. 71-496 - Ward v. Monroeville.

W. O. D.

(S)

Mr. Justice Brennan

cc: The Conference

My file copy

2nd DRAFT

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

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

CLARENCE WARD v. VILLAGE OF MONROE- Circulated: 12-28-71
VILLE, OHIO

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF OHIO

No. 71-496. Decided January — 1972

PER CURIAM.

The Mayor of Monroeville, Ohio, found petitioner guilty of two traffic offenses and fined him \$50 on each. The Mayor sat as judge pursuant to Ohio Revised Code 1905.01 *et seq.* which authorizes Mayors of Ohio municipalities to do so in cases of ordinance violations and certain traffic offenses. The Ohio Court of Appeals of Huron County, 21 Ohio App. 2d 17, 254 N. E. 2d 375 (1969), and the Ohio Supreme Court, 27 Ohio St. 2d 179, 271 N. E. 2d 757 (1971), sustained the conviction. Those courts rejected petitioner's contention that trial before a Mayor who also had responsibilities for revenue production and law enforcement denied him a trial before a disinterested and impartial judicial officer as guaranteed by the Due Process Clause of the Fourteenth Amendment.

The Mayor of Monroeville has wide executive powers and is the chief conservator of the peace. He is president of the village council, presides at all meetings, votes in case of a tie, accounts annually to the council respecting village finances, fills vacancies in village offices and has general overall supervision of village affairs. A major part of village income is derived from the fines, forfeitures, costs and fees imposed by him in his Mayor's court. Thus in 1964, this income contributed \$23,589.50 of total village revenues of \$46,355.38; in 1965 it was \$18,508.95 of \$46,752.60; in 1966 it was \$16,085 of \$43,585.13; in 1967 it was \$20,060.65 of \$53,931.43; and in 1968 it was \$23,429.42 of \$52,995.95. This revenue was of such importance to the village that when legislation threatened its loss, the village retained a manage-

major
part of
income
from fines

Page 4.

To: The Chief Justice
Mr. Justice Doug
Mr. Justice Stew
Mr. Justice Whit
Mr. Justice Mars
✓ Mr. Justice Blac
Mr. Justice Powe
Mr. Justice Rehr

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

CLARENCE WARD v. VILLAGE OF MONROEVILLE, OHIO

From: 1

Circulat

Recirculation: 1-10-72

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF OHIO

No. 71-496. Decided January — 1972

PER CURIAM.

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Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 3, 1972

71-496 - Ward v. Monroeville

Dear Bill,

I am glad to join the Per Curiam you have circulated in this case.

Sincerely yours,

P. S.

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

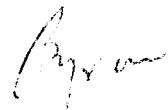
January 5, 1972

Re: No. 71-496 - Ward v. Village
of Monroeville, Ohio

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 14, 1972

Re: No. 71-496 - Ward v. Monroeville, Ohio

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Brennan

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 5, 1972

Re: No. 71-496 - Ward v. Village of Monroeville

Dear Bill:

Please join me in your proposed Per Curiam
for this case.

Sincerely,

Hal.

Mr. Justice Brennan

cc: The Conference



January 17, 1972

Re: 71-496 - Ward v. Village of Monroeville

Dear Bill:

In working on my proposed dissent from your Per Curiam in this case, I noticed that your third draft refers to the Ohio city involved as Xerna. Glancing at the Dugan case, I have noted that the spelling of the city is Xenia. This fact will doubtless not persuade you to change the outcome of the ~~opinion~~, but I thought you would probably want to correct the spelling.

Sincerely,

WHR

Mr. Justice Brennan

1st DRAFT

SUPREME COURT OF THE UNITED STATES

CLARENCE WARD *v.* VILLAGE OF MONROEVILLE, OHIO

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

No. 71-496. Decided January —, 1972

MR. JUSTICE REHNQUIST, dissenting.

The Court today summarily reverses the conviction of the petitioner who was found guilty of two traffic offenses and fined \$50 for each in the Mayor's Court of Monroeville, Ohio. In so doing, it greatly expands the holding of *Tumey v. Ohio*, 273 U. S. 510 (1927), and casts serious doubt on the validity of the tens of thousands of courts similar to that of Monroeville throughout the country.

Tumey v. Ohio held that the judge of the "Liquor Court" carried on by a municipality in Hamilton County, Ohio, was constitutionally disqualified from acting in a judicial capacity because of the Due Process Clause of the Fourteenth Amendment. The Mayor's only compensation for acting as a judge of the "Liquor Court" in that case came from costs taxed in his favor, and costs might only be taxed where a defendant was convicted; thus the Mayor's income was discernibly augmented if he found the defendant guilty, but it was not if he acquitted the defendant. The minimum fine that could be imposed by the Liquor Court for the prohibition offenses which it was set up to try was \$100 for the first offense, and \$300 for a second offense; the maximum fine was \$1,000 for a first offense, and \$10,000 for a second offense. The "Liquor Court" was empowered under Ohio law to try offenses originating anywhere in the county, and not merely within the jurisdiction presided over by the Mayor.