

# The Burger Court Opinion Writing Database

## *Brown v. Oklahoma*

408 U.S. 914 (1972)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

Circulated: 6-15-72

WILBERT MONTELL BROWN v. STATE OF  
OKLAHOMA

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

ON APPEAL FROM THE COURT OF CRIMINAL APPEALS OF  
THE STATE OF OKLAHOMA

No. 71-6535. Decided June —, 1972

PER CURIAM.

The judgment is vacated and the case is remanded to the Court of Criminal Appeals of the State of Oklahoma for reconsideration in the light of *Cohen v. California*, 402 U. S. 15 (1971), and *Gooding v. Wilson*, 405 U. S. — (1972).

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 14, 1972

71-6535 - Brown v. Oklahoma

Dear Bill,

I agree with your suggested disposition of this case.

Sincerely yours,

JS,  
✓

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

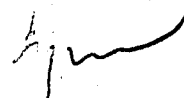
June 13, 1972

Re: No. 71-6535 - Brown v. Oklahoma

Dear Bill:

I agree with your suggested  
disposition in this case.

Sincerely,



Mr. Justice Brennan

Copies to Conference

✓  
June 19, 1972

Re: No. 71-6535 - Brown v. Oklahoma

Dear Chief and Bill:

If you propose to extend your dissents in No. 70-5323, Lewis v. New Orleans, and No. 71-1044, Rosenfeld v. New Jersey, to this case, I would join each of you. If Lewis expands his dissent in Rosenfeld to include this case, I would also join him.

Sincerely,

H. A. B.

The Chief Justice  
Mr. Justice Rehnquist

cc: Mr. Justice Powell ✓

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

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

From: Powell, J.  
Circulated: **JUN 20 1972**

**WILBERT MONTELL BROWN v. STATE OF  
OKLAHOMA**

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

ON APPEAL FROM THE COURT OF CRIMINAL APPEALS OF  
THE STATE OF OKLAHOMA

No. 71-6535. Decided June —, 1972

MR. JUSTICE POWELL, concurring in the result.

The statute involved in this case is considerably broader than the statute involved in *Rosenfeld v. New Jersey*, ante, p. —, and it has not been given a narrowing construction by the Oklahoma courts. Moreover, the papers filed in this case indicate that the language for which appellant was prosecuted was used in a political meeting to which appellant had been invited to present the Black Panther viewpoint. In these circumstances language of the character charged might well have been anticipated by the audience.

These factors lead me to conclude that this case is significantly different from *Rosenfeld v. New Jersey*, ante, p. —. I therefore concur in the Court's disposition of this case.