

# The Burger Court Opinion Writing Database

## *Taylor v. McKeithen*

407 U.S. 191 (1972)

Paul J. Wahlbeck, George Washington University  
James F. Spriggs, II, Washington University in St. Louis  
Forrest Maltzman, George Washington University



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

CHAMBERS OF  
THE CHIEF JUSTICE

June 9, 1972

*[Handwritten signature]*

Re: No. 71-784 - Taylor v. McKeithen

Dear Bill:

Please join me in your dissent.

Regards,

*[Handwritten signature]*

Mr. Justice Douglas

cc: The Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

June 9, 1972

*WML*  
*AS*  
*MT*  
Re: No. 71-784 - Taylor v. McKeithen

Dear Bill:

Please join me in your dissent.

Regards,

WEB

Mr. Justice Rehnquist

cc: The Conference

[Incorrectly circulated to Justice Douglas earlier this morning.] - *atd*

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4

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

DOROTHY TAYLOR ET AL. v. JOHN J. McKEITHEN,  
GOVERNOR OF LOUISIANA, ET AL. 6/8/72 ✓

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 71-784. Decided May —, 1972

PER CURIAM.

The 1970 self-reapportionment of the Louisiana Legislature was challenged in this lawsuit on the dual grounds that it offended both the one-man-one-vote principle and the prohibition against voting arrangements designed to dilute the voting strength of racial minorities. After the United States Attorney General interposed an objection to the election law change under § 5 of the Voting Rights Act of 1965, 42 U. S. C. § 1973 (c), the District Court appointed a special master to prepare a court-imposed plan. The master was verbally instructed to hold hearings and in devising a proposal to maintain the integrity of political subdivisions and to observe natural or historical boundaries "as nearly as possible." He was also instructed that "[n]o consideration whatsoever was to be given to the location of the residences of either incumbents in office or of announced or prospective candidates." Opinion of Judge West, Civil Action 71-234, August 24, 1971.

The special master held four days of hearings during which over 100 persons were heard. Proposed plans were received by him. No one was denied a hearing. He then submitted his recommendation to the District Court and after a hearing it was adopted by the court.

This dispute involves only four state senate seats affected by the reapportionment. At the hearing held by the District Judge on the master's proposal, the state attorney general presented a counterplan which

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to  
MHA  
MHA  
MHA

To : The Chief Justice  
Mr. Justice  
Mr. Justice  
Mr. Justice  
Mr. Justice  
Mr. Justice  
Mr. Justice

3rd DRAFT

# SUPREME COURT OF THE UNITED STATES

DOROTHY TAYLOR ET AL. v. JOHN J. McKEITHEN,  
GOVERNOR OF LOUISIANA, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

6/9/72

No. 71-784. Decided June 12, 1972

PER CURIAM.

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

*gmc*  
CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 5, 1972

*no file*  
Re: No. 71-784 - Taylor v. McKeithen

Dear Bill:

Please join me in your per curiam.

Sincerely,

*T.M.*  
T.M.

Mr. Justice Douglas

cc: Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 9, 1972

Re: No. 71-784 Taylor v. McKeithen

Dear Bill:

Please join me in your dissent.

Sincerely,

*Lewis*

Mr. Justice Rehnquist

cc: The Conference

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To: The Honorable Justices  
Mr. Chief Justice  
Mr. Justice Brandeis  
Mr. Justice Cardozo  
Mr. Justice E. Hughes  
Mr. Justice White  
Mr. Justice William  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell

ED-004798

SUPREME COURT OF THE UNITED STATES

DOROTHY TAYLOR ET AL. v. JOHN J. McKEITHEN,  
GOVERNOR OF LOUISIANA, ET AL.

ET AL  
Circulated: 6/9/72

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

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TO THE UNITED

MR. JUSTICE REHNQUIST, dissenting.

The short recitation of specific facts in the Court's opinion makes clear that the issues in this case, as viewed by both petitioners and respondent, are well developed in the record. The federal questions adverted to by the Court in its opinion are undoubtedly important ones. They are either presented by the proceedings below on this record, or they are not; this Court, in exercising its certiorari jurisdiction, may wish to consider such problems as are presented in this case at this time, or it may not. While an opinion from the Court of Appeals fully explaining the reason for its reversal of the District Court would undoubtedly be of assistance to our exercise of certiorari jurisdiction here, it is by no means essential.<sup>1</sup> I do not believe that the Court's vacation of the judgment below with a virtually express directive to the Court of Appeals that it write an opinion is an appropriate exercise of this Court's authority.

The courts of appeals are statutory courts, having the power to prescribe rules for the conduct of their own business so long as those rules are consistent with applicable law and rules of practice and procedure prescribed by this Court, 28 U. S. C. § 2071. No existing statute or rule of procedure prohibits the Fifth Circuit from issuing a short opinion and order, as it has done here, or from deciding cases without any opinion at all. Cf. Rule 21, Court of Appeals for the Fifth Circuit. The courts of

<sup>1</sup> See, e. g., *Lego v. Twomey*, — U. S. —, — n. 6 (1972).

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