

# The Burger Court Opinion Writing Database

## *Tillman v. Wheaton-Haven Recreation Association, Inc.*

410 U.S. 431 (1973)

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



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

CHAMBERS OF  
THE CHIEF JUSTICE

February 23, 1973

Re: No. 71-1136 - Tillman v. Wheaton-Haven Recreation

Dear Harry:

Please join me.

Regards,  
Lee JS

Mr. Justice Blackmun

Copies to the Conference

J. - WTR

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U.S. SUPREME COURT MANUSCRIPTS

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

February 10, 1973

Dear Harry:

Please join me in your memo  
(opinion) in No. 71-1136 - Tillman v.  
Wheaton-Haven Assoc.

*cc W*  
W. O. D.

Mr. Justice Blackmun

cc: Conference

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U.S. DEPARTMENT OF JUSTICE  
OFFICE OF THE CLERK

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR. February 9, 1973

RE: No. 71-1136 Tillman v. Wheaton-Haven  
Recreation Association

Dear Harry:

I agree.

Sincerely,

*Bill*

Mr. Justice Blackmun

cc: The Conference

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U.S. DEPARTMENT OF COMMERCE

3

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

CHAMBERS OF  
JUSTICE POTTER STEWART

February 16, 1973

71-1136 - Tillman v. Wheaton-  
Haven Recreation Assn.

Dear Harry,

I agree with your memorandum in this  
case.

Sincerely yours,

P.S.  
/

Mr. Justice Blackmun

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SSBPCNOC EO ADV LIT IN

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 20, 1973

Re: No. 71-1136 - Tillman v. Wheaton-Haven  
Recreation Assn

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Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

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U.S. DEPARTMENT OF JUSTICE

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL


February 12, 1973

Re: No. 71-1136 - Tillman v. Wheaton-Haven

Dear Harry:

Please join me.

Sincerely,

  
T.M.

Mr. Justice Blackmun

cc: Conference

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U.S. SUPREME COURT RECORDS

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SSSNCNOC 50 17P ADV 1 IN

Please join me  
JMB

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

2nd DRAFT

From: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

Regulated: 2/9/73

No. 71-1136

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

Murray Tillman et al., Petitioners,	} On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.
v.	
Wheaton-Haven Recreation Association, Inc., et al.	

[February —, 1973]

MR. JUSTICE BLACKMUN, memorandum.

Wheaton-Haven Recreation Association, Inc., a non-profit Maryland corporation, was organized in 1958 for the purpose of operating a swimming pool. After a membership drive to raise funds, the Association obtained zoning as a "community pool" and constructed its facility near Silver Spring, Maryland. The Association is essentially a single-function recreational club, furnishing only swimming and related amenities.<sup>1</sup>

Membership is by family units, rather than individuals, and is limited to 325 families.<sup>2</sup> This limit has been reached on at least one occasion. Membership is largely keyed to the geographical area within a three-quarter mile radius of the pool.<sup>3</sup> A resident (whether or not a

<sup>1</sup> Candy, ice cream, and soft drinks have been sold on the premises, but these were merely incidentals for the convenience of swimmers during the season. Aside from meetings of the board of directors and of the general membership, the premises apparently have been utilized only for pool-related activities.

<sup>2</sup> Wheaton-Haven presently charges an initiation fee of \$375 and annual dues ranging from \$50 to \$60, depending on the number of persons in the family unit.

<sup>3</sup> The Association's bylaws provide that "[m]embership shall be open to bona fide residents (whether or not home owners) of the



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

February 12, 1973

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

Re: No. 71-1136 Tillman v. Wheaton-Haven

Dear Harry:

Please join me.

Sincerely,

*L. F. Powell*

Mr. Justice Blackmun

lfp/ss

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

February 22, 1973

Re: No. 71-1136 - Tillman v. Wheaton-Haven

Dear Harry:

Please join me.

Sincerely,

*WR*

Mr. Justice Blackmun

Copies to the Conference

WD