

The Burger Court Opinion Writing Database

In re Griffiths

413 U.S. 717 (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

April 12, 1973

Re: No. 71-1336 - In re Application of Fre Le Poole
Griffiths for Admission to the Bar

Dear Lewis:

At Conference I had sufficient reservations
on this that I recorded a tentative vote to affirm. I
have done some further study and conceivably I may
join on a limited basis. I will act soon.

Regards,

WLB

Mr. Justice Powell

Copies to the Conference

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SECRET

1
M

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

From: The Chief Justice

Circulated: JUN 21 1973

Recirculated: _____

No. 71-1336 - Application of Fre Le Poole Griffiths
for Admission to the Bar

MR. CHIEF JUSTICE BURGER, dissenting.

I agree generally with Mr. Justice Rehnquist's dissent and add a few observations.

In the rapidly shrinking "one world" we live in there are numerous reasons why the states might appropriately consider relaxing some of the restraints on the practice of professions by aliens. The fundamental factor, however, is that the states reserved, among other powers, that of regulating the practice of professions within their own borders. If that concept has less validity now than in the 18th Century when it was made part of the "bargain" to create a federal union, it is nonetheless part of that compact.

A large number of American nationals are admitted to the practice of law in more than a dozen countries; this will expand as world trade enlarges. But the question for the Court is not what is

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SSBPCNOC OF ADVANCE IN

Supreme Court of the United States

Memorandum

1/12, 1977

Lewis

would you
like to write
the alien

Lawyer case

71 - 13367

COO

10
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

March 6, 1973

Dear Lewis:

Please join me in your excellent
opinion in 71-1336, Application of Fre Le
Poole Griffiths.


William O. Douglas

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. March 8, 1973

RE: No. 71-1336 In re Application of Fre Le
Poole Griffiths for Admission to the Bar

Dear Lewis:

I agree.

Sincerely,

Bill

Mr. Justice Powell

cc: The Conference

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U.S. SUPREME COURT RECORDS

37
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 7, 1973

71-1336, Application of Griffiths

Dear Lewis,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.
✓

Mr. Justice Powell

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OFFICE OF THE CLERK OF THE SUPREME COURT

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

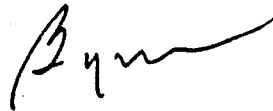
March 8, 1973

Re: No. 71-1336 - Application of Griffiths

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 7, 1973

Re: No. 71-1336 - In re Application of Griffiths

Dear Lewis:

Please join me.

Sincerely,


T.M.

Mr. Justice Powell
cc:
Conference

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U.S. SUPREME COURT RECORDS

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 7, 1973

Re: No. 71-1336 - In Re Application of Griffiths

Dear Lewis:

Thank you for your note of March 6. I still have a good bit of work to do on Sugarman, and it may be a few weeks before I complete it. I am inclined to think that the two cases should come down together and, if you would, I hope you do not mind waiting until Sugarman is finished.

Sincerely,

A handwritten signature in dark ink, appearing to read "Harry", with a horizontal line extending to the right.

Mr. Justice Powell

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 22, 1973

MEMORANDUM TO THE CONFERENCE

Re: No. 71-1336 - In re Griffiths

When Lewis circulated his opinion in this case, I called and suggested to him the desirability of having No. 71-1222, Sugarman v. Dougall, come down at the same time. Lewis indicated that this was perhaps desirable. Sugarman will be out in due course and I shall try not to delay it too long.

H.A.B.

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U.S. DEPT. OF JUSTICE

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 13, 1973

Re: No. 71-1336 - In re Griffiths

Dear Lewis:

Your opinion is persuasive and I am pleased
to join it.

Sincerely,



Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 12, 1973

Re: No. 1336 In Re Application of Griffiths

Dear Bill:

As I did not speak to you after we adjourned today, I write to confirm that I will be glad to do the opinion in this case.

Sincerely,

Lewis

Mr. Justice Douglas

lfp/ss

March 6, 1973

71-1336

Dear Harry:

Here is my first circulation of the Griffiths opinion.

I have tried to write it narrowly to avoid foreclosing the issue in No. 71-1222 Sugarman v. Dougall. There is, however, inevitably some overlap.

If you have any suggestions, after you have had an opportunity to review my draft, I will certainly be happy to consider them.

Sincerely,

Mr. Justice Blackmun

lfp/ss

Please for me
WJ

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

2nd DRAFT

From: Powell, J.
MAR 6 1973

SUPREME COURT OF THE UNITED STATES

No. 71-1336

Recirculated: _____

In re Application of Fre Le Poole } On Appeal from the
Griffiths for Admission to } Supreme Court of
the Bar, Appellant. } Connecticut.

[February —, 1973]

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents a novel question as to the constraints imposed by the Equal Protection Clause of the Fourteenth Amendment on the qualifications which a State may require for admission to the bar. Appellant, Fre Le Poole Griffiths, a citizen of the Netherlands, came to the United States in 1965, originally as a visitor. In 1967, she married a citizen of the United States and became a resident of Connecticut.¹ After her graduation from law school, she applied in 1970 for permission to take the Connecticut bar examination. The County Bar Association found her qualified in all respects save that she was not a citizen of the United States as required by Rule 8 (1) of the Connecticut Practice Book (1963),² and

¹ Appellant is eligible for naturalization by reason of her marriage to a citizen of the United States and residence in the United States for more than three years, 8 U. S. C. § 1430 (a). She has not filed a declaration of intention to become a citizen of the United States, 8 U. S. C. § 1445 (f), and has no present intention of doing so. Appellant's Brief, p. 4. In order to become a citizen, appellant would be required to renounce her citizenship of the Netherlands. 8 U. S. C. § 1448 (a).

² The rules are promulgated by the judges of the Superior Court, Conn. Gen. Stat. §§ 51-80, and administered by the Connecticut Bar Association.

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U. S. SUPREME COURT

March 7, 1973

Re: No. 71-1336 In re Application of Griffiths

Dear Harry:

I will, of course, be happy to hold Griffiths until you are ready to bring Sugarman down.

Sincerely,

Mr. Justice Blackmun

lfp/ss

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AN APPALACHIAN CONGRESS

cc: The Conference

Changes. 3, 4, 10

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

3rd DRAFT

From: Powell, J.

SUPREME COURT OF THE UNITED STATES

No. 71-1336

Recirculated:

Recirculated: MAR 26 1973

In re Application of Fre Le Poole } On Appeal from the
Griffiths for Admission to } Supreme Court of
the Bar, Appellant. } Connecticut.

[February —, 1973]

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents a novel question as to the constraints imposed by the Equal Protection Clause of the Fourteenth Amendment on the qualifications which a State may require for admission to the bar. Appellant, Fre Le Poole Griffiths, a citizen of the Netherlands, came to the United States in 1965, originally as a visitor. In 1967, she married a citizen of the United States and became a resident of Connecticut.¹ After her graduation from law school, she applied in 1970 for permission to take the Connecticut bar examination. The County Bar Association found her qualified in all respects save that she was not a citizen of the United States as required by Rule 8 (1) of the Connecticut Practice Book (1963),² and

¹ Appellant is eligible for naturalization by reason of her marriage to a citizen of the United States and residence in the United States for more than three years, 8 U. S. C. § 1430 (a). She has not filed a declaration of intention to become a citizen of the United States, 8 U. S. C. § 1445 (f), and has no present intention of doing so. Appellant's Brief, p. 4. In order to become a citizen, appellant would be required to renounce her citizenship of the Netherlands. 8 U. S. C. § 1448 (a).

² The rules are promulgated by the judges of the Superior Court, Conn. Gen. Stat. §§ 51-80, and administered by the Connecticut Bar Association.

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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

4th DRAFT

SUPREME COURT OF THE UNITED STATES ^{POWELL, J.}

No. 71-1336

Circulated: _____

Recirculated **APR 20 1973**

In re Application of Fre Le Poole } On Appeal from the
Griffiths for Admission to } Supreme Court of
the Bar, Appellant. } Connecticut.

[February —, 1973]

MR. JUSTICE POWELL delivered the opinion of the Court.

This case presents a novel question as to the constraints imposed by the Equal Protection Clause of the Fourteenth Amendment on the qualifications which a State may require for admission to the bar. Appellant, Fre Le Poole Griffiths, is a citizen of the Netherlands who came to the United States in 1965, originally as a visitor. In 1967, he married a citizen of the United States and became a resident of Connecticut.¹ After her graduation from law school, she applied in 1970 for permission to take the Connecticut bar examination. The County Bar Association found her qualified in all respects save that she was not a citizen of the United States as required by Rule 8 (1) of the Connecticut Practice Book (1963),² and

¹ Appellant is eligible for naturalization by reason of her marriage to a citizen of the United States and residence in the United States for more than three years, 8 U. S. C. § 1430 (a). She has not filed a declaration of intention to become a citizen of the United States, 8 U. S. C. § 1445 (f), and has no present intention of doing so. Appellant's Brief, p. 4. In order to become a citizen, appellant would be required to renounce her citizenship of the Netherlands. 8 U. S. C. § 1448 (a).

² The rules are promulgated by the judges of the Superior Court, Conn. Gen. Stat. §§ 51-80, and administered by the Connecticut Bar Association. The position of the State in this case is represented by the State Bar Examining Committee.

WD

June 21, 1973

**No. 71-1336 Application of Fre Le Poole Griffiths
for Admission to the Bar**

Dear Chief:

I have now reviewed your dissenting opinion, and do not think it calls for any changes in the Court opinion.

Although we differ as to the final results, I agree with - and admire - your eloquent statement on the traditional role of the lawyer.

Sincerely,

The Chief Justice

LFP/gg

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 21, 1973

Re: No. 71-1336 - In re Fre Le Poole Griffiths

Dear Lewis:

I voted in the minority at Conference, and plan to write a dissent. Since the issues in this case are relatively closely related to those in Sugarman v. Dougall, I would rather draft one dissent for both opinions. Therefore, unless it inconveniences you, I shall wait till Harry circulates a draft in Sugarman before preparing my joint dissent.

Sincerely, WJW

Mr. Justice Powell

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SECRETARY OF ADVISORY

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 22, 1973

Re: No. 71-1336 - Application of Fre Le Poole Griffiths
for Admission to the Bar

Dear Chief:

Please join me in your dissenting opinion in this case.

Sincerely,



The Chief Justice

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U.S. DEPARTMENT OF JUSTICE