

The Burger Court Opinion Writing Database

Goosby v. Osser

409 U.S. 512 (1973)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

January 12, 1973

Re: No. 71-6316 - Goosby v. Osser

Dear Bill:

Please join me.

Regards,
WB

Mr. Justice Brennan

Copies to the Conference

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SECRETARY OF THE SUPREME COURT

3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 8, 1973

Dear Bill:

In No. 71-6316 - Goosby v. Osser,
please join me in your opinion.

W.O.D.

Mr. Justice Brennan

cc: Conference

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*Please join me
H*

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

2nd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 1-8-73

Recirculated: _____

No. 71-6316

Andrew C. Goosby et al., } On Writ of Certiorari to the
Petitioners, } United States Court of
v. } Appeals for the Third
Maurice Osser et al. } Circuit.

[January —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The question is whether 28 U. S. C. § 2281¹ required the convening of a three-judge court in the District Court for the Eastern District of Pennsylvania to hear and determine the constitutional questions raised by the complaint in this case. It is a class action brought by and on behalf of persons awaiting trial and confined in Philadelphia County prisons because either unable to afford bail or because charged with nonbailable offenses. The complaint alleges that provisions of the Pennsylvania Election Code, in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment, absolutely deny petitioners' class the right to vote in that they neither permit members of the

¹ 28 U. S. C. § 2281 provides:

"An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board of commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title."

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THE MANUSCRIPT DIVISION

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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

3rd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

Recirculated: 1-11-73

No. 71-6316

Andrew C. Goosby et al., } On Writ of Certiorari to the
Petitioners, } United States Court of
v. } Appeals for the Third
Maurice Osser et al. } Circuit.

[January —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The question is whether 28 U. S. C. § 2281¹ required the convening of a three-judge court in the District Court for the Eastern District of Pennsylvania to consider this case. It is a class action brought by and on behalf of persons awaiting trial and confined in Philadelphia County prisons because either unable to afford bail or because charged with nonbailable offenses. The complaint alleges that provisions of the Pennsylvania Election Code, in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment, absolutely deny petitioners' class the right to vote in that they neither permit members of the class to leave

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"An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board of commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title."

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U. S. SUPREME COURT RECORDS

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

4th DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

No. 71-6316

Recirculated: 1/12/73

Andrew C. Goosby et al., } On Writ of Certiorari to the
Petitioners, } United States Court of
v. } Appeals for the Third
Maurice Osser et al. } Circuit.

[January —, 1973]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

The question is whether 28 U. S. C. § 2281¹ required the convening of a three-judge court in the District Court for the Eastern District of Pennsylvania to hear this case. It is a class action brought by and on behalf of persons awaiting trial and confined in Philadelphia County prisons because either unable to afford bail or because charged with nonbailable offenses. The complaint alleges that provisions of the Pennsylvania Election Code, in violation of the Equal Protection and Due Process Clauses of the Fourteenth Amendment, absolutely deny petitioners' class the right to vote in that they neither permit members of the class to leave

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"An interlocutory or permanent injunction restraining the enforcement, operation or execution of any State statute by restraining the action of any officer of such State in the enforcement or execution of such statute or of an order made by an administrative board of commission acting under State statutes, shall not be granted by any district court or judge thereof upon the ground of the unconstitutionality of such statute unless the application therefor is heard and determined by a district court of three judges under section 2284 of this title."

3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

January 9, 1973

71-6316, Goosby v. Osser

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

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U.S. SUPREME COURT RECORDS

3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

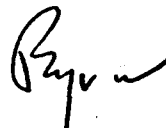
January 10, 1973

Re: No. 71-6316 - Goosby v. Osser

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

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THE MANUSCRIPT DIVISION

OFFICE OF THE CLERK OF THE SUPREME COURT

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 9, 1973

Re: No. 71-6316 - Goosby v. Osser

Dear Bill:

Please join me.

Sincerely,


T.M.

Mr. Justice Brennan

cc: Conference

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IN THE MANUSCRIPT DIVISION

SECTION OF ADVISORY

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 11, 1973

Re: No. 71-6316 - Goosby v. Osser

Dear Bill:

Please join me in your circulation of
January 11.

Sincerely,

Harry

Mr. Justice Brennan

cc: The Conference

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THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 9, 1973

No. 71-6316 Goosby v. Osser

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Brennan

cc: The Conference

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U.S. SUPREME COURT RECORDS

3
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 9, 1973

Re: No. 71-6316 - Goosby v. Osser

:
Dear Bill:

I voted the other way at Conference, but your opinion persuades me, and I seek leave to join.

Sincerely,

WHR

Mr. Justice Brennan

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