

The Burger Court Opinion Writing Database

California v. Krivda

409 U.S. 33 (1972)

Paul J. Wahlbeck, George Washington University

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File

74

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

CHAMBERS OF
THE CHIEF JUSTICE

October 19, 1972

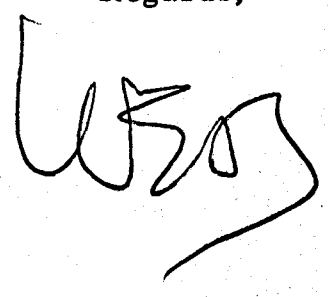
Re: 71-651 - California v. Krivda - per curiam

Dear Bill:

I can readily join your proposed per curiam if you will include somewhere in the text a statement generally as follows:

"We intimate no opinion as to the result this Court would reach under the 4th or 14th Amendments."

Regards,



Mr. Justice Brennan

cc: The Conference

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OFFICE OF THE CLERK OF THE SUPREME COURT

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

October 14, 1972

Dear Bill:

I will join your Per Curiam
in No. 71-651 - California v. Krivda.


William O. Douglas

Mr. Justice Brennan

CC: The Conference

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SSERJNOC FO ADVAD I N

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

— Brennan, J.

No. 71-651

Circulated: 10/11/72

Recirculated: _____

State of California, Petitioner, }
v. } On Writ of Certiorari to
Judith Krivda and Roger T. } the Supreme Court of
Minor. } California.

[October —, 1972]

PER CURIAM.

On the basis of evidence obtained in a police search of respondents' trash, respondents were charged with possession of marihuana in violation of § 11530 of the California Health and Safety Code. The Supreme Court of California affirmed the superior court's judgment of dismissal and order suppressing the evidence on the grounds that, under the circumstances of this case, respondents "had a reasonable expectation that their trash would not be rummaged through and picked over by police officers acting without a search warrant." *People v. Krivda*, 5 Cal. 3d 357, 366-367, 96 Cal. Rptr. 62, 68, 486 P. 2d 1262, 1268 (1971) (*en banc*). We granted certiorari. 405 U. S. 1039.

After briefing and argument, however, we are unable to determine whether the California Supreme Court based its holding upon the Fourth Amendment to the Constitution of the United States or upon the equivalent provision of the California Constitution, or both. In reaching its result in this case, the California court cited pertinent excerpts from its earlier decision in *People v. Edwards*, 71 Cal. 2d 1096, 80 Cal. Rptr. 663, 458 P. 2d 713 (1969), which relied specifically upon both the state and federal provisions. 5 Cal. 3d, at 367, 96 Cal. Rptr., at 69, 486 P. 2d, at 1269. Thus, as in *Mental Hygiene Dept. v. Kirchner*, 380 U. S. 194, 196-197 (1965),

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SECTION OF ADVISORY

Please forward
file ✓

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

2nd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

No. 71-651

Recirculated: 10/13/72

State of California, Petitioner, }
v. } On Writ of Certiorari to
Judith Krivda and Roger T. } the Supreme Court of
Minor. } California.

[October —, 1972]

PER CURIAM.

On the basis of evidence obtained in a police search of respondents' trash, respondents were charged with possession of marihuana in violation of § 11530 of the California Health and Safety Code. The Supreme Court of California affirmed the superior court's judgment of dismissal and order suppressing the evidence on the grounds that, under the circumstances of this case, respondents "had a reasonable expectation that their trash would not be rummaged through and picked over by police officers acting without a search warrant." *People v. Krivda*, 5 Cal. 3d 357, 366-367, 96 Cal. Rptr. 62, 68, 486 P. 2d 1262, 1268 (1971) (*en banc*). We granted certiorari. 405 U. S. 1039.

After briefing and argument, however, we are unable to determine whether the California Supreme Court based its holding upon the Fourth and Fourteenth Amendments to the Constitution of the United States or upon the equivalent provision of the California Constitution, or both. In reaching its result in this case, the California court cited pertinent excerpts from its earlier decision in *People v. Edwards*, 71 Cal. 2d 1096, 80 Cal. Rptr. 663, 458 P. 2d 713 (1969), which relied specifically upon both the state and federal provisions. 5 Cal. 3d, at 367, 96 Cal. Rptr., at 69, 486 P. 2d, at 1269. Thus, as in *Mental Hygiene Dept. v. Kirchner*, 380 U. S.

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U. S. DEPARTMENT OF JUSTICE

See page 2

Please join me
Joined on 10/16/72
for final #

3rd DRAFT

Mr. Chief Justice
Mr. Justice Douglas
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

SUPREME COURT OF THE UNITED STATES

From: Brennan, J.

Circulated: _____

No. 71-651

Recirculated: 10/19/72

State of California, Petitioner,
v.
Judith Krivda and Roger T.
Minor.

On Writ of Certiorari to
the Supreme Court of
California.

[October —, 1972]

PER CURIAM.

On the basis of evidence obtained in a police search of respondents' trash, respondents were charged with possession of marihuana in violation of § 11530 of the California Health and Safety Code. The Supreme Court of California affirmed the superior court's judgment of dismissal and order suppressing the evidence on the grounds that, under the circumstances of this case, respondents "had a reasonable expectation that their trash would not be rummaged through and picked over by police officers acting without a search warrant." *People v. Krivda*, 5 Cal. 3d 357, 366-367, 96 Cal. Rptr. 62, 68, 486 P. 2d 1262, 1268 (1971) (*en banc*). We granted certiorari. 405 U. S. 1039.

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U.S. SUPREME COURT

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

CHAMBERS OF
JUSTICE POTTER STEWART

October 16, 1972

71-651 - Calif. v. Krivda

Dear Bill,

I am glad to join the Per Curiam you
have prepared in this case.

Sincerely yours,

P.S.
/

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

October 13, 1972

Re: No. 71-651 - California v. Krivda

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

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U.S. SUPREME COURT RECORDS

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 16, 1972

Re: No. 71-651 - California v. Krivda and Minor

Dear Bill:

Please join me in your Per Curiam.

Sincerely,


T.M.

Mr. Justice Brennan

cc: Conference

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SSERJNOC OF ADVBLI N

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

October 16, 1972

Re: No. 71-651 - California v. Krivda

Dear Bill:

I am glad to join your proposed Per
Curiam.

Sincerely,



Mr. Justice Brennan

cc: The Conference

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U.S. SUPREME COURT RECORDS

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

October 16, 1972

Re: No. 71-651 California v. Krivda

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Brennan

cc: The Conference

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SECTION OF ADVISORY

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

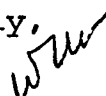
October 13, 1972

Re: No. 71-651 - California v. Krivda

Dear Bill:

Please join me in your Per Curiam in this case.

Sincerely,



Mr. Justice Brennan

Copies to Conference

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U.S. SUPREME COURT