The Burger Court Opinion Writing Database

Chaffin v. Stynchcombe

412 U.S. 17 (1973)

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

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

CHAMBERS OF
THE CHIEF JUSTICE

May 8, 1973

Re: No. 71-6732 - Chaffin v. Stynchcombe

Dear Lewis:

Please join me.

Regards,

WEB

Mr. Justice Powell

Copies to the Conference.

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

April 18, 1973

Dear Lewis:

In 71-6732, Chaffin v. Stynchcombe would you kindly add at the end of your opinion:

Mr. Justice Douglas dissents for the reasons stated in his dissenting opinion in Moon v. Maryland, 398 U.S. 319, 321.

William O. Douglas

Mr. Justice Powell

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

May 17, 1973

Dear Lewis:

Would you mind adding to your present addendum to your opinion in Chaffin, 71-6732 that states my view the following:

He also agrees with Mr. Justice Stewart and Mr. Justice Marshall that establishing one rule for resentencing by judges and another for resentencing by juries burdens the defendants right to choose to be tried by a jury after a successful appeal. United States v. Jackson.

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.

May 17, 1973

RE: No. 71-6732 Chaffin v. Stynchcombe

Dear Potter:

Please join me in your dissenting opinion in the above.

115-3

Sincerely,

Bill

Mr. Justice Stewart

cc: The Conference

REPRODUCED FROM THE COLLECTIO[N] OF THE MANUSCRIPT DIVISI[ON] [RE]STRICTIONS MAY APPLY TO [USE]

Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

From: Stewart, J.

SUPREME COURT OF THE UNITED STATES

Circulated: MAY 16 1973

No. 71-6732

Recirculated: _____

James Chaffin, Petitioner, *v.* LeRoy Stynchcombe, Sheriff of Fulton County. | On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[May —, 1973]

MR. JUSTICE STEWART, dissenting.

In *North Carolina* v. *Pearce,* 395 U. S. 711, 725, the Court held that "vindictiveness against a defendant for having successfully attacked his first conviction must play no part in the sentence he receives after a new trial." As I see it, there is a real danger of such vindictiveness even when a jury rather than a judge imposes the sentence after retrial. Because the Court today declines to require any procedures to eliminate that danger, even though procedures quite similar to those adopted in *Pearce* could readily be applied without sacrificing the values of jury sentencing, I must dissent.

The true threat of vindictiveness at a retrial where the jury metes out the sentence comes from the trial judge and prosecutor. Either or both might have personal and institutional reasons for desiring to punish a defendant who has successfully challenged his conviction. Out of vindictiveness the prosecutor might well ask for a sentence more severe than that meted out after the first trial, and a judge by the manner in which he charges the jury might influence the jury to impose a higher sentence at the second trial. In the present case, for example, while the petitioner was sentenced to 15-years imprisonment after his first trial, on retrial the prosecutor asked the jury to impose the death penalty, and the judge instructed the jury that they could inflict that

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 30, 1973

Re: No. 71-6732 Chaffin v. Stynchcombe

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

April 26, 1973

Re: No. 71-6732 - Chaffin v. LeRoy Stynchcombe

Dear Lewis:

In due course I hope to circulate a dissent in this case.

Sincerely,

T.M.

Mr. Justice Powell

cc: Conference

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

1st DRAFT

From: Marshall, J.

Circulated: MAY 11 1973

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 71–6732

James Chaffin, Petitioner, v. LeRoy Stynchcombe, Sheriff of Fulton County. | On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[May —, 1973]

MR. JUSTICE MARSHALL, dissenting.

I cannot agree with the Court that it is permissible for a jury, but not for a judge, to give a defendant on his retrial a sentence more severe than the one he received in his first trial, without specifying particular aspects of his behavior since the time of his first trial that justify the enhanced sentence. Such a rule is defective in two ways. First, the Court acknowledges that a jury violates the Constitution when it gives such a defendant a more severe sentence to punish him for successfully taking an appeal. *Ante,* pp. 9–11. Yet, when the costs, in terms of other values served by juries, of the methods preventing, detecting, and remedying that kind of violation are balanced against the minor degree to which restrictions on jury resentencing impair the values served by jury sentencing, the need to vindicate the constitutional right warrants restrictions on juries similar to those we placed on judges in *North Carolina* v. *Pearce,* 395 U. S. 711 (1969). Second, as in *United States* v. *Jackson,* 390 U. S. 570 (1958), the possibility that a jury might increase a sentence for reasons that would be unavailable to a judge unnecessarily burdens the defendant's right to choose a jury trial. I therefore respectfully dissent.

I begin with what appears to be common ground. If the jury on retrial has been informed of the defendant's

WD

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Stylistic changes

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

No. 71-6732

Circulated: _____

Recirculated: MAY 17 1973

James Chaffin, Petitioner, *v.* LeRoy Stynchcombe, Sheriff of Fulton County. | On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[May —, 1973]

MR. JUSTICE MARSHALL, dissenting.

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I begin with what appears to be common ground. If the jury on retrial has been informed of the defendant's

5

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 19, 1973

Re: No. 71-6732 - Chaffin v. Stynchcombe

Dear Lewis:

Please join me.

Sincerely,

H.A.B.

Mr. Justice Powell

cc: The Conference

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LFP
In due course I hope to circulate a dissent in this case. M

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

1st DRAFT

From: Powell, J.

SUPREME COURT OF THE UNITED STATES

Circulated: APR 17 1973

No. 71-6732

Recirculated: _____

James Chaffin, Petitioner, v. LeRoy Stynchcombe, Sheriff of Fulton County. | On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[April —, 1973]

MR. JUSTICE POWELL delivered the opinion of the Court.

A writ of certiorari was granted in this case to consider whether the Due Process Clause of the Fourteenth Amendment imposes restrictions on the power of a State to entrust the sentencing responsibility to the jury in cases of retrials following reversals of previous convictions. In *North Carolina* v. *Pearce,* 395 U. S. 711 (1969), this Court established limitations on the imposition of higher sentences by judges in similar circumstances. While we reaffirm the underlying rationale of *Pearce* that vindictiveness against the accused for having successfully overturned his conviction has no place in the resentencing process, whether by judge or jury, we hold today that due process of law does not require extension of *Pearce*-type restrictions to jury sentencing.

I

Early in 1969, petitioner was tried by a jury in a Georgia state criminal court on a charge of robbery by open force or violence, a capital offense at that time. The jury, which had been instructed that it was empowered to impose a sentence of death, life imprison-

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April 30, 1973

Re: No. 71-6732 Chaffin v. Stynchcombe

Dear Byron:

Here is a second draft of Chaffin, in which I have attempted to meet the points you raised.

I appreciate your suggestions, which have been helpful in every instance. If I have not met them satisfactorily, please let me know.

Sincerely,

Mr. Justice White

lfp/ss

cc;

— Changes 1, 4, 10, 11, 12, 18

B

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

2nd DRAFT

From: Powell, J.

Circulated: APR 30 1973

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SUPREME COURT OF THE UNITED STATES

No. 71-6732

James Chaffin, Petitioner, v. LeRoy Stynchcombe, Sheriff of Fulton County. | On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[April —, 1973]

MR. JUSTICE POWELL delivered the opinion of the Court.

A writ of certiorari was granted in this case to consider whether, in those States that entrust the sentencing responsibility to the jury, the Due Process Clause of the Fourteenth Amendment bars the jury from rendering higher sentences on retrials following reversals of prior convictions. In *North Carolina* v. *Pearce*, 395 U. S. 711 (1969), this Court established limitations on the imposition of higher sentences by judges in similar circumstances. While we reaffirm the underlying rationale of *Pearce* that vindictiveness against the accused for having successfully overturned his conviction has no place in the resentencing process, whether by judge or jury, we hold today that due process of law does not require extension of *Pearce*-type restrictions to jury sentencing.

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Change p. 17.

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.

Circulated: _____

Recirculated: MAY 16 1973

SUPREME COURT OF THE UNITED STATES

No. 71-6732

James Chaffin, Petitioner, v. LeRoy Stynchcombe, Sheriff of Fulton County. | On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[April —, 1973]

MR. JUSTICE POWELL delivered the opinion of the Court.

A writ of certiorari was granted in this case to consider whether, in those States that entrust the sentencing responsibility to the jury, the Due Process Clause of the Fourteenth Amendment bars the jury from rendering higher sentences on retrials following reversals of prior convictions. In *North Carolina* v. *Pearce*, 395 U. S. 711 (1969), this Court established limitations on the imposition of higher sentences by judges in similar circumstances. While we reaffirm the underlying rationale of *Pearce* that vindictiveness against the accused for having successfully overturned his conviction has no place in the resentencing process, whether by judge or jury, we hold today that due process of law does not require extension of *Pearce*-type restrictions to jury sentencing.

I

Early in 1969, petitioner was tried by a jury in a Georgia state criminal court on a charge of robbery by open force or violence, a capital offense at that time. The jury, which had been instructed that it was empowered to impose a sentence of death, life imprison-

WJD

June 6, 1973

Cases held for Chaffin v. Stynchcombe, No. 71-6732, and Michigan v. Payne, No. 71-1005

71-1245 Slayton v. Hammer
71-1281 Linder v. Recor
71-1472 Neil v. Pendergrass
72-6542 Corpus v. Estelle
72-400 Rose v. Rivera
71-1495 Wingo v. Bruce

MEMORANDUM TO THE CONFERENCE:

Five certiorari petitions are presently listed as "holds" for the above cases. In each of the cases federal courts of appeals held Pearce applicable in the context of jury resentencing. Because of the Pearce rulings in those cases, no consideration was given to the traditional due process considerations of actual vindictiveness, which we stated in Chaffin might occasion reduction of an increased sentence even though Pearce itself does not compel the result. Each of the five cases, then, should be granted, vacated, and remanded for reconsideration in light of Chaffin. Additionally four of the cases applied Pearce's standards retroactively, either by direct consideration or by implication. Our decision in Payne provides an independent ground for reversal of these cases. Therefore, my recommendations are as follows:

No. 71-1245, Slayton v. Hammer, grant, vacate, and remand for reconsideration in light of Chaffin and Payne.

No. 71-1472, Neil v. Pendergrass, same

LFP

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 30, 1973

Re: No. 71-6732 - Chaffin v. Stynchcombe

Dear Lewis:

Please join me.

Sincerely,

WHR

Mr. Justice Powell

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