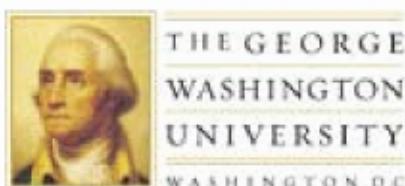


The Burger Court Opinion Writing Database

Executive Jet Aviation, Inc. v. Cleveland
409 U.S. 249 (1972)

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



7
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

December 13, 1972

Re: No. 71-678 - Executive Jet Aviation v. Cleveland

Dear Potter:

Please join me.

Regards,

W. B.

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

December 12, 1972

Dear Potter:

In No. 71-678 - Executive Jet Aviation
v. Cleveland, I voted the other way. But
you have written an excellent opinion and I
forsake my unwritten dissent and join your
opinion.

W. O. D.

Mr. Justice Stewart

cc: Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 12, 1972

RE: No. 71-678 - Executive Jet Aviation v.
Cleveland

Dear Potter:

I voted the other way at conference but
your very excellent opinion persuades me. I
am happy to join.

Sincerely,

Bill

Mr. Justice Stewart

cc: The Conference

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

From: Stewart, J.

DEC 8 1972

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SUPREME COURT OF THE UNITED STATES

No. 71-678

Executive Jet Aviation, Inc.,
et al., Petitioners,
v.
City of Cleveland, Ohio,
et al. } On Writ of Certiorari to
the United States Court
of Appeals for the Sixth
Circuit.

[December —, 1972]

MR. JUSTICE STEWART delivered the opinion of the Court.

On July 28, 1968, a jet aircraft, owned and operated by the petitioners, struck a flock of seagulls as it was taking off from Burke Lakefront Airport in Cleveland, Ohio, adjacent to Lake Erie. As a result, the plane lost its power, crashed, and ultimately sank in the navigable waters of Lake Erie, a short distance from the airport. The question before us is whether the petitioners' suit for property damage to the aircraft, allegedly caused by the respondents' negligence, lies within federal admiralty jurisdiction.

When the crash occurred, the plane was manned by a pilot, a co-pilot, and a stewardess, and was departing Cleveland on a charter flight to Portland, Maine, where it was to pick up passengers and then continue to White Plains, New York. After being cleared for takeoff by the respondent Dicken, who was the federal air traffic controller at the airport, the plane took off, becoming airborne at about half the distance down the runway. The takeoff flushed the seagulls on the runway, and they rose into the airspace directly ahead of the ascending plane. Ingestion of the birds into the plane's jet

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 11, 1972

Re: No. 71-678 - Exec. Jet Aviation v. Cleveland

Dear Potter:

Please join me.

Sincerely,


T.M.

Mr. Justice Stewart

cc: Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 15, 1972

Re: No. 71-678 - Executive Jet Aviation
v. City of Cleveland

Dear Potter:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Stewart

cc: The Conference

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

MEMBERS OF
HIS F. POWELL, JR.

December 9, 1972

Re: No. 71-678 Executive Jet Aviation, Inc.
v. City of Cleveland

Dear Potter:

Please join me.

Sincerely,

Lewin

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

You

December 12, 1972

Re: No. 71-678 - Executive Jet Aviation v. Cleveland

Dear Potter:

Please join me in your opinion for the Court.

sincerely,

W.W.

Mr. Justice Stewart

Copies to the Conference