

The Burger Court Opinion Writing Database

Murch v. Mottram

409 U.S. 41 (1972)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

October 20, 1972

Re: No. 72-55 - Murch v. Mottram

Dear Bill:

Please join me in your per curiam.

Regards,

WFB

Mr. Justice Rehnquist

cc: The Conference

THE HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE
Stanford, California 94305-6000



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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

October 24, 1972

Dear Bill:

In No. 72-55 - Murch v. Mottram,
please join me in your dissent.

W. O. D.

Mr. Justice Brennan

cc: Conference

HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE
Sanford, California 94305-6000



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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

1st DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Decided: Oct. 24, 1972
Recirculated: _____
FRANK F. MURCH ET AL. v. ROBERT H. MOTTRAM

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 72-55. Decided October —, 1972

MR. JUSTICE BRENNAN, dissenting.

I dissent and would affirm because in my view the Court of Appeals reached the correct result on the facts presented.

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To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshal
Mr. Justice Blackmu
Mr. Justice Powell
Mr. Justice Rehnqui

2nd DRAFT

From: Brennan, J.

SUPREME COURT OF THE UNITED STATES

Circulated: _____

FRANK F. MURCH ET AL. v. ROBERT H. MOTTR ~~Recirculated: 10/24/78~~

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 72-55. Decided October —, 1972

MR. JUSTICE BRENNAN, with whom MR. JUSTICE
DOUGLAS concurs, dissenting.

I dissent and would affirm because in my view the
Court of Appeals reached the correct result on the facts
presented.

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Sanford, California 94301-6000



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to: The Chief Justice
Mr. Justice Dongian
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice Powell
Mr. Justice Rehnquist

3rd DRAFT

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SUPREME COURT OF THE UNITED STATES

Circulated: _____

FRANK F. MURCH ET AL. v. ROBERT H. MOTTRAM

Recirculated: _____

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 72-55. Decided October —, 1972

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL concur, dissenting.

I dissent and would affirm because in my view the Court of Appeals reached the correct result on the facts presented.

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Stanford, California 94305-6000



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

CHAMBERS OF
JUSTICE POTTER STEWART

*I wrote
you made a
note of it
and I do
not like
the way you
wrote it*

October 27, 1972

Re: No. 72-55, Murch v. Mottram

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

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ON WAR, REVOLUTION AND PEACE



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

CHAMBERS OF
JUSTICE BYRON R. WHITE

October 20, 1972

Re: No. 72-55 - Murch v. Mottram

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

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ON WAR, REVOLUTION AND PEACE



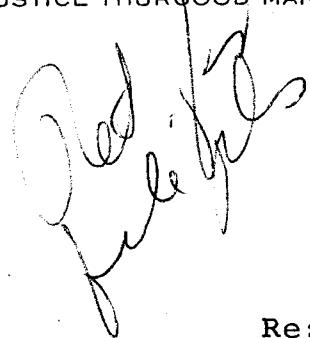
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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

October 30, 1972



Re: No. 72-55 - Murch v. Mottram

Dear Bill:

Please join me in your dissent.

Sincerely,



T.M.

Mr. Justice Brennan

cc: Conference

HOOVER INSTITUTION
ON WAR, REVOLUTION AND PEACE
Sanford, California 94395-6000



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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

October 19, 1972

Re: No. 72-55 - Murch v. Mottram

Dear Bill:

Please join me in your proposed Per Curiam
circulated October 19.

Sincerely,

H. A. B.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

W. H. Smith
London

October 19, 1972

Re: No. 72-55 Frank F. Murch et al v.
Robert H. Mottram

Dear Bill:

Please join me.

Sincerely,

Mr. Justice Rehnquist

cc: Conference

Black - Brown E.

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HOOVER INSTITUTION

ON WAR, REVOLUTION AND PEACE

Second California Survey

The seal of the University of the State of New York, featuring a central figure holding a torch and a book, surrounded by the text "THE UNIVERSITY OF THE STATE OF NEW YORK".

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

FRANK F. MURCH ET AL. v. ROBERT H. MOTTRAM

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED
STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 72-55. Decided October —, 1972

PER CURIAM.

Respondent Mottram sought habeas corpus from the United States District Court in Maine, challenging on various constitutional grounds the validity of a criminal conviction obtained in the Maine state courts. After a full evidentiary hearing, the District Court denied relief both on the ground that respondent had deliberately bypassed state procedures established for the post-conviction adjudication of such claims, and on the ground that the constitutional claims were without merit. *Mottram v. Murch*, 330 F. Supp. 51 (Me. 1971). The Court of Appeals for the First Circuit reversed, holding that respondent had not waived his right to raise the constitutional issues, and ruling in favor of respondent on one such issue. *Murch v. Mottram*, — F. 2d — (CA1 1972). We have concluded that, under settled principles governing the availability of federal habeas for state prisoners, the finding of the District Court as to waiver must be sustained, and we therefore reverse the judgment of the Court of Appeals.

Mottram was convicted in 1960 of larceny and as an habitual offender, and these convictions were upheld on appeal. *State v. Mottram*, 158 Me. 325, 184 A. 2d 225 (1962). On that appeal Mottram did not litigate the constitutional issue upon which the Court of Appeals based its decision. Respondent was paroled in 1963, but parole was revoked in 1965. Following that revocation, Mottram brought in state court the action which later became the main focus of concern of the Court of Appeals and the District Court. The original petition



3rd DRAFT

SUPREME COURT OF THE UNITED STATES

FRANK F. MURCH ET AL. v. ROBERT H. MOTTRAM

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No. 72-55. Decided October —, 1972

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