

The Burger Court Opinion Writing Database

Curtis v. Loether

415 U.S. 189 (1974)

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

CHAMBERLAIN
THE CHIEF JUSTICE

February 12, 1974

Re: 72-1035 - Curtis W. Loether

Dear Thurgood:

Please join me.

Regards,

W.S. 13

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

January 26, 1974

Dear Thurgood:

Please join me in your opinion
in 72-1035, Curtis v. Loether.


WILLIAM O. DOUGLAS

Mr. Justice Marshall

cc: The Conference

January 29, 1974

RE: No. 72-1035 Rogers v. Loether

Dear Thurgood:

I think this is a fine job and I am certainly with it. I have one problem. At page 3, the bottom two sentences, you lay aside the statutory argument to reach the constitutional question. I guess our usual rule is to avoid deciding constitutional questions if we can answer them under the statute. That's the approach I am taking in Nos. 72-700 Hernandez v. Veterans' Administration and No. 72-1297 Johnson v. Robison, the cases involving educational benefits for conscientious objectors. Is there any way you can handle this in your case by being more emphatic as to the reasons you are forced to decide the constitutional question? I know you say the legislative history is ambiguous but I would hope there would be more filler than that. I'd hate to have someone say that almost on the same day you and I applied differently the controlling principle.

Sincerely,

Mr. Justice Marshall

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

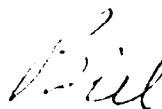
January 29, 1974

RE: No. 72-1035 Curtis v. Loether

Dear Thurgood:

I agree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 29, 1974

Re: No. 72-1035, Curtis v. Loether

Dear Thurgood,

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

Sincerely,

P.S.
/

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 28, 1974

Re: No. 72-1035 - Curtis v. Loether

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to Conference

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

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

No. 72-1035

Recirculated: _____

Julia Rogers Curtis, }
Petitioner, } On Writ of Certiorari to the United
v. } States Court of Appeals for the
Leroy Loether et al. } Seventh Circuit.

[February —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

Section 812 of the Civil Rights Act of 1968, 42 U. S. C. § 3612 (1970), authorizes private plaintiffs to bring civil actions to redress violations of Title VIII, the fair housing provisions of the Act, and provides that "[t]he court may grant as relief, as it deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order, and may award to the plaintiff actual damages and not more than \$1,000 punitive damages, together with court costs and reasonable attorney fees" The question presented in this case is whether the Civil Rights Act or the Seventh Amendment requires a jury trial upon demand by one of the parties in an action for damages and injunctive relief under this section.

Petitioner, a Negro woman, brought this action under § 812, claiming that respondents, who are white, had refused to rent an apartment to her because of her race, in violation of § 804 (a) of the Act, 42 U. S. C. § 3604 (a) (1970). In her complaint she sought only injunctive relief and punitive damages; a claim for compensatory damages was later added.¹ After an evidentiary hear-

¹ Although the lower courts treated the action as one for com-

To: The Chief Justice
Mr. Justice Douglas
- Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Blackmun
Mr. Justice Powell¹
Mr. Justice Rehnquist

From: Marshall, J.

3rd DRAFT

Circulated: _____

SUPREME COURT OF THE UNITED STATES

Recirculated: JAN 3

No. 72-1035

Julia Rogers Curtis, }
Petitioner, } On Writ of Certiorari to the United
v. } States Court of Appeals for the
Leroy Loether et al. } Seventh Circuit.

[February —, 1974]

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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

4th DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

No. 72-1035

Recirculated: 4-9-6

Julia Rogers Curtis, }
Petitioner, } On Writ of Certiorari to the United
v. } States Court of Appeals for the
Leroy Loether et al. } Seventh Circuit.

[February —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

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¹ Although the lower courts treated the action as one for com-

FEB 11 1974

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1035

Julia Rogers Curtis,	} On Writ of Certiorari to the United	
Petitioner,		States Court of Appeals for the
v.		Seventh Circuit.
Leroy Loether et al.		

[February —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 30, 1974

Dear Thurgood:

Re: No. 72-1035 - Curtis v. Loether

Please join me.

Sincerely,

H. A. B.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 30, 1974

No. 72-1035 Curtis v. Loether

Dear Thurgood:

Please join me.

Sincerely,

L. Lewis

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 30, 1974

Re: No. 72-1035 - Curtis v. Loether

Dear Thurgood:

Please join me in your opinion for the Court in this case.

Sincerely,

WHR

Mr. Justice Marshall

Copies to the Conference

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