

# The Burger Court Opinion Writing Database

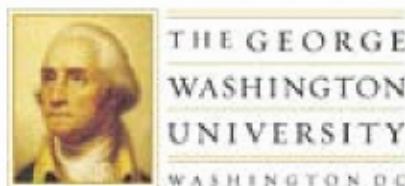
*Curtis v. Loether*

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

CHAMBER  
THE CHIEF JUSTICE

February 12, 1974

Re: 72-1035 - Curtis V. Loether

Dear Thurgood:

Please join me.

Regards,

*WSB*

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

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

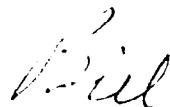
CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR. January 29, 1974

RE: No. 72-1035 Curtis v. Loether

Dear Thurgood:

I agree.

Sincerely,



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.*  
1/1

Mr. Justice Marshall

Copies to the Conference

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 Steiner  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

2nd DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Plated: 14425

No. 72-1035

Recirculated:

Julia Rogers Curtis, Petitioner,  
v.  
Leroy Loether et al. } On Writ of Certiorari to the United States Court of Appeals for the 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.<sup>1</sup> After an evidentiary hear-

<sup>1</sup> 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 Powell  
Mr. Justice Rehnquist

From: Marshall, J.

3rd DRAFT

Circulated:

Recirculated: JAN 5

**SUPREME COURT OF THE UNITED STATES**

No. 72-1035

Julia Rogers Curtis, Petitioner, v. Leroy Loether et al. } On Writ of Certiorari to the United States Court of Appeals for the 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.<sup>1</sup> After an evidentiary hear-

<sup>1</sup> Although the lower courts treated the action as one for com-

To: the Clerk of Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

R.7  
4th DRAFT

From: Marshall, J.

Circulated.

## SUPREME COURT OF THE UNITED STATES

No. 72-1935

Recirculated: 2-9-8

Julia Rogers Curtis, Petitioner,  
v.  
Leroy Loether et al. On Writ of Certiorari to the United States Court of Appeals for the 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.<sup>1</sup> After an evidentiary hear-

<sup>1</sup> 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, Petitioner,  
v.  
Leroy Loether et al. } On Writ of Certiorari to the United  
States Court of Appeals for the  
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.<sup>1</sup> After an evidentiary hear-

<sup>1</sup> Although the lower courts treated the action as one for com-

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,

*Wm*

Mr. Justice Marshall

Copies to the Conference