

# The Burger Court Opinion Writing Database

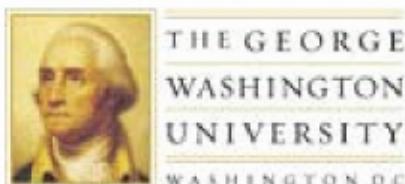
*United States v. Matlock*

415 U.S. 164 (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

CHAMBERS OF  
THE CHIEF JUSTICE

February 14, 1974

Re: 72-1355 - U. S. v. Matlock

Dear Byron:

Please join me.

Regards,

WR

Mr. Justice White

Copies to the Conference

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1355

1-31

United States, Petitioner, } On Writ of Certiorari to the  
v. } United States Court of  
William Earl Matlock. } Appeals for the Seventh  
Circuit.

[February —, 1974]

MR. JUSTICE DOUGLAS, dissenting.

Respondent William Matlock has been indicted for robbing a federally insured bank in violation of 18 U. S. C. § 2113. The issue in this case involves the suppression of money found in a closet in Matlock's bedroom during a warrantless search of the home in which he lived. The search of the home, and of the bedroom, was authorized by one Gayle Graff, and the Court now remands this case for the District Court to determine, in the light of evidence that court had previously excluded, whether Mrs. Graff was in fact a joint occupant of the bedroom with sufficient authority to consent to the search. Because I believe that the absence of a search warrant in this case, where the authorities had opportunity to obtain one, is fatal, I dissent from that disposition of this case.

The home which was searched was rented by one William Marshall, who lived there with members of his family, including his wife and his 21-year-old daughter Gayle Graff. Respondent Matlock paid the Marshalls for the use of a bedroom in the home, which he apparently occupied with Gayle Graff. Respondent was arrested in the yard of the home on the morning of November 12, 1970. He offered no resistance, and was restrained in a squad car a distance from the home.

*Crusader*  
2-1-74

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1355

United States, Petitioner, } On Writ of Certiorari to the  
v. } United States Court of  
William Earl Matlock. } Appeals for the Seventh  
Circuit.

[February —, 1974]

MR. JUSTICE BRENNAN, dissenting.

I would not limit the remand to the determination whether Mrs. Graff was in fact a joint occupant of the bedroom with sufficient authority to consent to the search. In my view the determination is also required that Mrs. Graff consented knowing that she was not required to consent. "It wholly escapes me how our citizens can meaningfully be said to have waived something as precious as a constitutional guarantee without even being aware of its existence." *Schneckloth v. Bustamonte*, 412 U. S. 218, 277 (BRENNAN, J., dissenting). I would hold that an individual cannot effectively waive this right if he is totally ignorant of the fact that, in the absence of his consent, such invasions of privacy would be constitutionally prohibited.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

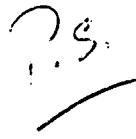
January 28, 1974

72-1355, United States v. Matlock

Dear Byron,

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

Sincerely yours,



Mr. Justice White

Copies to the Conference

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

1st DRAFT

From: White, J.

**SUPREME COURT OF THE UNITED STATES**

Placed: 1-18-74  
No. 72-1355  
Decided: \_\_\_\_\_

United States, Petitioner, } On Writ of Certiorari to the  
v.                           } United States Court of  
William Earl Matlock.   } Appeals for the Seventh  
                                 Circuit.

[January —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

In *Schneckloth v. Bustamonte*, 421 U. S. 218 (1973), the Court reaffirmed the principle that the search of property, without warrant and without probable cause, but with proper consent voluntarily given, is valid under the Fourth Amendment. The question now before us is whether the evidence presented by the United States with respect to the voluntary consent of a third party to search the living quarters of the defendant was legally sufficient to render the seized materials admissible in evidence at the defendant's criminal trial.

3

Respondent Matlock was indicted in February 1971 for the robbery of a federally insured bank in Wisconsin, in violation of 18 U. S. C. § 2113. A week later, he filed a motion to suppress evidence seized by law enforcement officers from a home in the town of Pardeeville, Wisconsin, in which he had been living. Suppression hearings followed. As found by the District Court, the facts were that respondent was arrested in the yard in front of the Pardeeville home on November 12, 1970. The home was leased from the owner by Mr. and Mrs. Marshall. Liv-

STENOTYPED THROUGHOUT.

~~SECRET~~

TO: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Black  
Mr. Justice Powell  
Mr. Justice Rehnquist

From: White, J.

2nd DRAFT

Circulated: \_\_\_\_\_

Recirculated: 2-1

SUPREME COURT OF THE UNITED STATES

No. 72-1355

United States, Petitioner, } On Writ of Certiorari to the  
v. } United States Court of  
William Earl Matlock. } Appeals for the Seventh  
Circuit.

[January —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

In *Schneckloth v. Bustamonte*, 412 U. S. 218 (1973), the Court reaffirmed the principle that the search of property, without warrant and without probable cause, but with proper consent voluntarily given, is valid under the Fourth Amendment. The question now before us is whether the evidence presented by the United States with respect to the voluntary consent of a third party to search the living quarters of the respondent was legally sufficient to render the seized materials admissible in evidence at the respondent's criminal trial.

1

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To: The Chief Justice  
Mr. Justice Douglas  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Harlan  
Mr. Justice White

From: United States

Filed: \_\_\_\_\_

Recirculated: 2-10-  
12

p. 9  
3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 72-1355

United States, Petitioner, } On Writ of Certiorari to the  
v. William Earl Matlock. } United States Court of  
Appeals for the Seventh  
Circuit.

[January —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

In *Schneckloth v. Bustamonte*, 412 U. S. 218 (1973), the Court reaffirmed the principle that the search of property, without warrant and without probable cause, but with proper consent voluntarily given, is valid under the Fourth Amendment. The question now before us is whether the evidence presented by the United States with respect to the voluntary consent of a third party to search the living quarters of the respondent was legally sufficient to render the seized materials admissible in evidence at the respondent's criminal trial.

### I

Respondent Matlock was indicted in February 1971 for the robbery of a federally insured bank in Wisconsin, in violation of 18 U. S. C. § 2113. A week later, he filed a motion to suppress evidence seized by law enforcement officers from a home in the town of Pardeeville, Wisconsin, in which he had been living. Suppression hearings followed. As found by the District Court, the facts were that respondent was arrested in the yard in front of the Pardeeville home on November 12, 1970. The home was leased from the owner by Mr. and Mrs. Marshall. Liv-

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 4, 1974

Re: No. 72-1355 -- United States v. William Earl Matlock

Dear Bill:

Please join me in your dissent in this case.

Sincerely,



T. M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

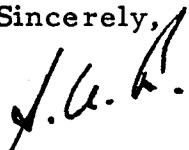
January 21, 1974

Re: No. 72-1355 - U. S. v. Matlock

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

January 19, 1974

No. 72-1355 U. S. v. Matlock

Dear Byron:

As Jo and I hope to be away for the next ten days, I will not be able to review carefully your circulated opinion for the Court until after my return.

Sincerely,



Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF

JUDGE LEWIS F. POWELL, JR.

January 24, 1974

No. 72-1355 United States v. Matlock

Dear Byron:

Please join me.

Sincerely,

*Lewis*

Mr. Justice White

CC: The Conference

LFP:gg

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 28, 1974

Re: No. 72-1355 - United States v. Matlock

Dear Byron:

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

Sincerely,

W.W.

Mr. Justice White

Copies to the Conference