

The Burger Court Opinion Writing Database

Richardson v. Ramirez

418 U.S. 24 (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.

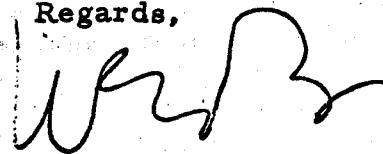
April 9, 1974

Re: No. 72-1589 - Richardson v. Ramirez, et al

Dear Bill:

Please join me.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

April 9, 1974

Re: No. 72-1589 - Richardson v. Ramirez, et al

Dear Bill:

Please join me.

Regards,

Mr. Justice Rehnquist

Copies to the Conference

P.S. Depending on what else is written, I may add a few harmless remarks. In the necessarily rather long opinion some factors may not come out to the reader.

word } haven't
w/g/s rated

January 22, 1974

Dear Bill:

Would you take on the dissent(s) in:

72-1589 Richardson v. Bausler
72-1554 Super Tire v. McCorkle
72-1517 Gillmore v. Montgomery
72-985 ~~Mr. Masters Assoc. v. Schmidt~~
72-1973 ~~Schultz v. Calif. Bankers Assoc.~~
72-1196 ~~Stark v. Schmidt~~

William O. Douglas

Mr. Justice Brennan

cc: Thurgood Marshall

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

June 14, 1974

Dear Thurgood:

In 72-1589, Richardson v. Ramirez please add at the end of your opinion.

Mr. Justice Douglas, agreeing with Part I A of this opinion, dissents from a reversal of the judgment below as he cannot say that it does not rest on an independent state ground. See Hayakawa v. Brown --US-- (Douglas, J. writing as Circuit Justice).

W.O.D. *mcB*

William O. Douglas

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. June 14, 1974

RE: No. 72-1589 Richardson v. Ramirez

Dear Thurgood:

Please join me in your dissenting
opinion in the above.

Sincerely,



MR. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 4, 1974

72-1598, Richardson v. Ramirez

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 3, 1974

No. 72-1589, Richardson v. Ramirez

Dear Bill,

I think your opinion for the Court as
recirculated today is a fine job, and I am glad
to join it.

Sincerely yours,

P.S.
P.J.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 10, 1974

Re: No. 72-1589 - Richardson v. Ramirez

Dear Bill:

I join your circulation of April 3 in
this case.

Sincerely,



Mr. Justice Rehnquist

Copies to Conference

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

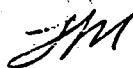
CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 27, 1974

MEMORANDUM TO THE CONFERENCE

Re: No. 72-1589 -- Richardson v. Ramirez

In due course, I will circulate a dissent in
this case.



T. M.

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.

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1589

Circulated: 3/28/74

Viola N. Richardson, as County
Clerk, Etc., Petitioner, } On Writ of Certiorari
v. } to the Supreme Court
Abran Ramirez et al. } of California.

Recirculated:

[April —, 1974]

MR. JUSTICE MARSHALL, dissenting.

This case draws into question the constitutionality of provisions of the California Constitution and implementing statutes disenfranchising ex-felons. The Supreme Court of California held that those disenfranchising provisions violate the Equal Protection Clause of the Fourteenth Amendment. Although I believe this case is moot, if required to determine the merits of the controversy, I would affirm the judgment of the court below.

I

I am persuaded that the case before us is moot, hence there is no dispute judicially cognizable under the powers conferred by Art. III. A brief retracing of the procedural history of the case is necessary to an understanding of my views. Each of the respondents, the plaintiffs below, had been convicted of a nonvoting related felony and had fully served his term of incarceration and parole. Each applied to register to vote in his respective county—Ramirez in San Luis Obispo County, Lee in Monterey County, and Gill in Stanislaus County. All three were refused registration because, under applicable provisions of the California Constitution, "no person convicted of any infamous crime shall exercise the privilege of an elector."¹

¹ California Constitution, Art. II, § 1 provided, in part, that "no person convicted of any infamous crime . . . shall ever exercise

Uncorrected
completely
rewritten

2nd DRAFT

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

SUPREME COURT OF THE UNITED STATES Marshall, J.

No. 72-1589

Circulated:

Recirculated: JUN 14 1974

Viola N. Richardson, as County
Clerk, Etc., Petitioner,
v.
Abran Ramirez et al.

On Writ of Certiorari
to the Supreme Court
of California.

[June —, 1974]

MR. JUSTICE MARSHALL, dissenting.

The Court today holds a State may strip ex-felons who have fully paid their debt to society of their fundamental right to vote without running afoul of the Fourteenth Amendment. This result is, in my view, based on an unsound historical analysis which already has been rejected by this Court. In straining to reach that result, I believe that the Court has also disregarded important limitations on its jurisdiction. For these reasons, I respectfully dissent.

I

A brief retracing of the procedural history of this case is necessary to a full understanding of my views. Each of the respondents, the plaintiffs below,¹ had been convicted of a felony unrelated to voting and had fully served his term of incarceration and parole. Each applied to register to vote in his respective county—Ramirez in San Luis Obispo County, Lee in Monterey County, and Gill in Stanislaus County. All three were refused registration because, under applicable provisions of the Cali-

¹ The proceedings below was a petition for a writ of mandamus in the California Supreme Court, hence the moving parties should properly be described as petitioners rather than plaintiffs. However, to avoid confusion, since the petitioners below are the respondents here and vice-versa, the parties in the California Court will be referred to herein simply as plaintiffs and defendants.

6-8, 9, 13, 15, 30

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.

Circulated:

Recirculated: JUN 18 19

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-1589

Viola N. Richardson, as County
Clerk, Etc., Petitioner,
v.
Abran Ramirez et al.

On Writ of Certiorari
to the Supreme Court
of California.

[June 19, 1974]

MR. JUSTICE MARSHALL, dissenting.

The Court today holds a State may strip ex-felons who have fully paid their debt to society of their fundamental right to vote without running afoul of the Fourteenth Amendment. This result is, in my view, based on an unsound historical analysis which already has been rejected by this Court. In straining to reach that result, I believe that the Court has also disregarded important limitations on its jurisdiction. For these reasons, I respectfully dissent.

I

A brief retracing of the procedural history of this case is necessary to a full understanding of my views. Each of the respondents, the plaintiffs below,¹ had been convicted of a felony unrelated to voting and had fully served his term of incarceration and parole. Each applied to register to vote in his respective county—Ramirez in San Luis Obispo County, Lee in Monterey County, and Gill in Stanislaus County. All three were refused registration because, under applicable provisions of the Cali-

¹ The proceeding below was a petition for a writ of mandamus in the California Supreme Court, hence the moving parties should properly be described as petitioners rather than plaintiffs. However, to avoid confusion, since the petitioners below are the respondents here and vice-versa, the parties in the California Court will be referred to herein simply as plaintiffs and defendants.

April 1, 1974

PERSONAL

Re: No. 72-1589 - Richardson v. Ramirez

Dear Bill:

I have read Thurgood's dissenting opinion with interest. One thing that struck me is the comment on page 21 to the effect that statutory reforms and technological changes of the last century have made election fraud "no longer even a serious danger." The pending No. 73-346, Anderson v. United States (our West Virginia election fraud effectuated through voting machines), makes me wonder about the general accuracy of that statement.

Sincerely,

HAB

Mr. Justice Rehnquist

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 8, 1974

Re: No. 72-1589 - Richardson v. Rainirez

Dear Bill:

Please join me in your circulation of April 3.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

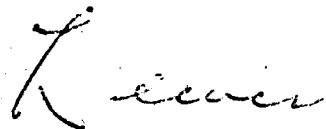
April 4, 1974

No. 72-1589 Richardson v. Ramirez

Dear Bill:

Please join me in your fine opinion for the Court.

Sincerely,



Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

1st DRAFT

From: Rehnquist, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: 2/26/74

No. 72-1589

Viola N. Richardson, as County
 Clerk, Etc., Petitioner,
 v.
 Abran Ramirez et al.

On Writ of Certiorari
 to the Supreme Court
 of California.

[February —, 1974]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

The three individual respondents in this case were convicted of felonies and have completed the service of their respective sentences and paroles. They filed a petition for a writ of mandate in the Supreme Court of California to compel California county election officials to register them as voters.¹ They claimed, on behalf of themselves and others similarly situated, that application to them of the provisions of the California Constitution and implementing statutes which disenfranchised persons convicted of an "infamous crime" denied them the right to equal protection of the laws under the Federal Constitution. The Supreme Court of California held that "as applied to all ex-felons whose terms of incarceration

¹ The petition for a writ of mandate in the Supreme Court of California also named the California Secretary of State as a respondent in his capacity of chief elections officer of the State of California. He did not join the petition for a writ of certiorari to this Court, and has filed a brief as a party respondent. Respondents here (petitioners below) also include, in addition to the three individual respondents, the League of Women Voters and three nonprofit organizations which support the interests of exconvicts—Los Pintos, 7th Step Foundations, Inc. (California Affiliates), and Prisoners' Union.

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

2nd DRAFT

From: Rehnquist, J.

SUPREME COURT OF THE UNITED STATES¹

Spanned: 2126174

Recirculated: 3/17

No. 72-1589

Viola N. Richardson, as County Clerk, Etc., Petitioner, v. Abran Ramirez et al. } On Writ of Certiorari to the Supreme Court of California.

[February 1, 1974]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

The three individual respondents in this case were convicted of felonies and have completed the service of their respective sentences and paroles. They filed a petition for a writ of mandate in the Supreme Court of California to compel California county election officials to register them as voters.¹ They claimed, on behalf of themselves and others similarly situated, that application to them of the provisions of the California Constitution and implementing statutes which disenfranchised persons convicted of an "infamous crime" denied them the right to equal protection of the laws under the Federal Constitution. The Supreme Court of California held that "as applied to all ex-felons whose terms of incarceration" (emphasis added) "had been completed, the provisions of the California Constitution and the implementing statutes which disenfranchised them violated the Fourteenth Amendment to the Federal Constitution."

¹ The petition for a writ of mandate in the Supreme Court of California also named the California Secretary of State as a respondent in his capacity of chief elections officer of the State of California. He did not join the petition for a writ of certiorari to this Court, and has filed a brief as a party respondent. Respondents here (petitioners below) also include, in addition to the three individual respondents, the League of Women Voters and three nonprofit organizations which support the interests of exconvicts—Los Pintos, 7th Step Foundations, Inc. (California Affiliates), and Prisoners' Union.

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

From: Rehnquist, J.

Circulated:

Recirculated: 4 3 74

SUPREME COURT OF THE UNITED STATES ^{Circ}

No. 72-1589

Viola N. Richardson, as County Clerk, Etc., Petitioner, v. Abran Ramirez et al. } On Writ of Certiorari to the Supreme Court of California.

[February 1, 1974]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

The three individual respondents in this case were convicted of felonies and have completed the service of their respective sentences and paroles. They filed a petition for a writ of mandate in the Supreme Court of California to compel California county election officials to register them as voters.¹ They claimed, on behalf of themselves and others similarly situated, that application to them of the provisions of the California Constitution and implementing statutes which disenfranchised persons convicted of an "infamous crime" denied them the right to equal protection of the laws under the Federal Constitution. The Supreme Court of California held that "as applied to all ex-felons whose terms of incarceration

¹ The petition for a writ of mandate in the Supreme Court of California also named the California Secretary of State as a respondent in his capacity of chief elections officer of the State of California. He did not join the petition for a writ of certiorari to this Court, and has filed a brief as a party respondent. Respondents here (petitioners below) also include, in addition to the three individual respondents, the League of Women Voters and three nonprofit organizations which support the interests of exconvicts—Los Pintos, 7th Step Foundations, Inc. (California Affiliates), and Prisoners' Union.

PP 11-12, 15-16

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

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

From: Rehnquist, J.

SUPREME COURT OF THE UNITED STATES

Circulated: 43

No. 72-1589

Recirculated: 6/11

Viola N. Richardson, as County Clerk, Etc., Petitioner, v. Abran Ramirez et al. } On Writ of Certiorari to the Supreme Court of California.

[June 19, 1974]

MR. JUSTICE REHNQUIST delivered the opinion of the Court.

The three individual respondents in this case were convicted of felonies and have completed the service of their respective sentences and paroles. They filed a petition for a writ of mandate in the Supreme Court of California to compel California county election officials to register them as voters.¹ They claimed, on behalf of themselves and others similarly situated, that application to them of the provisions of the California Constitution and implementing statutes which disenfranchised persons convicted of an "infamous crime" denied them the right to equal protection of the laws under the Federal Constitution. The Supreme Court of California held that "as applied to all ex-felons whose terms of incarceration" (emphasis added) "had been completed, the provisions of the California Constitution and the implementing statutes did not violate the Fourteenth Amendment to the Federal Constitution."

¹ The petition for a writ of mandate in the Supreme Court of California also named the California Secretary of State as a respondent in his capacity of chief elections officer of the State of California. He did not join the petition for a writ of certiorari to this Court, and has filed a brief as a party respondent. Respondents here (petitioners below) also include, in addition to the three individual respondents, the League of Women Voters and three nonprofit organizations which support the interests of exconvicts—Los Pintos, 7th Step Foundations, Inc. (California Affiliates), and Prisoners' Union.

WS
CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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

June 19, 1974

MEMORANDUM TO THE CONFERENCE

Re: Cases held for Richardson v. Ramirez, No. 72-1589

The following cases appear on list 1 of the June 21st Conference list:

No. 73-324, Class of County Clerks v. Ramirez (Cert. to Supreme Ct. of Cal.)

In this case, the "Class of County Clerks and Registrars of Voters of California" represented by the Attorney General of California seeks review of the same decision of the Supreme Court of California we are reversing in Richardson v. Ramirez. The Cal. AG's petition addresses itself only to the merits of the equal protection claims of the plaintiffs below, arguing that California's disenfranchisement of ex-felons is not violative of the Fourteenth Amendment.

The Cal. AG appeared below on behalf of the Cal. Secretary of State (Edmund Brown, Jr.), who did not seek review of the Cal. Sct's ruling and indeed filed a brief as a party respondent in Richardson v. Ramirez. The Cal. AG, however, filed this petition. His petition was filed initially on behalf of "The People of the State of California, and the Class of County Clerks and Registrars of California." But by letter to Mr. Rodak dated August 29, 1973, the Cal. AG amended the petition to name only the class of county clerks and registrars as a petr.

The respondents in this Court in this case are the plaintiffs in the Supreme Court of Cal. and the Cal. Secretary of State. Plaintiffs below contend in response that the Cal. AG cannot file a petition on behalf of a class without a named member, either under Cal. Code Civ. Pro. 382 or F.R. Civ. P. 23. They also contend that