

The Burger Court Opinion Writing Database

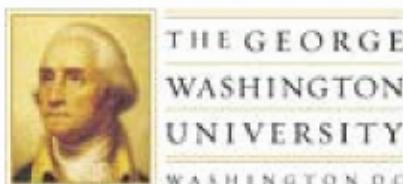
Davis v. Alaska

415 U.S. 308 (1974)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

1st DRAFT

From: The Chief Justice

Circulated: FEB 15 1974

SUPREME COURT OF THE UNITED STATES

No. 72-5794

Recirculated: _____

Joshiaway Davis, Petitioner, | On Writ of Certiorari to
| the Supreme Court of
State of Alaska | Alaska

[February 14, 1974]

Mr. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to consider whether the Confrontation Clause requires that a defendant in a criminal case be allowed to impeach the credibility of a prosecution witness by cross-examination directed at possible bias deriving from the witness' probationary status as a juvenile delinquent when such an impeachment would conflict with a State's asserted interest in preserving the confidentiality of juvenile identifications of delinquents.

When the Polar Bar in Anchorage closed in the early morning hours of February 14, 1973, well over a thousand dollars in cash and checks was in the bar's Musler safe. About midday February 16, it was discovered that the bar had been broken into and the safe, about two feet square and weighing several hundred pounds, had been removed from the premises.

Later that afternoon the Alaska State Troopers received word that a safe had been discovered about 26 miles outside Anchorage near the home of Jess Straight and his family. The safe, which was subsequently determined to be the one stolen from the Polar Bar, had been pried open and the contents removed. Richard

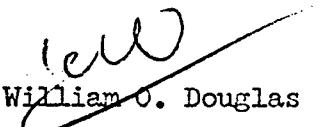
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

Feoruary 18, 1974

Dear Chief:

In 72-5794, Davis v. Alaska please
join me in your opinion for the Court.


William O. Douglas

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 19, 1974

RE: No. 72-5794 Davis v. Alaska

Dear Chief:

I agree.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 19, 1974

Re: No. 72-5794, Davis v. Alaska

Dear Chief,

I am glad to join your opinion for the Court in this case. I have sent to the Print Shop a brief concurring statement which I shall circulate promptly on its return therefrom.

Sincerely yours,

P.S.
1/1

The Chief Justice

Copies to the Conference

To: The Chief Justice
John Marshall, Douglas
William O. Douglas
William J. Brennan
William J. White
Thurgood Marshall
Potter Stewart
William H. Rehnquist
William J. Blackmun
William J. Powell
John Paul Stevens

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-5794

Joshaway Davis, Petitioner, | On Writ of Certiorari to
v. | the Supreme Court of
State of Alaska. | Alaska.

FEB 20 1974

[February —, 1974]

MR. JUSTICE STEWART, concurring.

The Court holds that, in the circumstances of this case, the Sixth and Fourteenth Amendments conferred the right to cross-examine a particular prosecution witness about his delinquency adjudication for burglary and his status as a probationer. Such cross-examination was necessary in this case "in order to show the existence of possible bias and prejudice . . ." p. 9, *supra*. In joining the Court's opinion, I would emphasize that the Court neither holds nor suggests that the Constitution confers a general right in every case to cross-examine any witness about his past delinquency adjudications or criminal convictions.

For The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

SUPREME COURT OF THE UNITED STATES

No. 72-5794

Circulated

Joshaway Davis, Petitioner, | On Writ of Certiorari to
v. | the Supreme Court of
State of Alaska. | Alaska.

Recirculated 1/22/75 1975

[February 27, 1974]

MR. JUSTICE STEWART, concurring.

The Court holds that, in the circumstances of this case, the Sixth and Fourteenth Amendments conferred the right to cross-examine a particular prosecution witness about his delinquency adjudication for burglary and his status as a probationer. Such cross-examination was necessary in this case "in order to show the existence of possible bias and prejudice . . ." p. 9, *supra*. In joining the Court's opinion, I would emphasize that the Court neither holds nor suggests that the Constitution confers a right in every case to impeach the general credibility of a witness through cross-examination about his past delinquency adjudications or criminal convictions.

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

1st DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

dated: 2-20-74

No. 72-5794

Recirculated: _____

Joshaway Davis, Petitioner, } On Writ of Certiorari to
v. } the Supreme Court of
State of Alaska. } Alaska.

[February —, 1974]

MR. JUSTICE WHITE, dissenting.

As I see it, there is no constitutional principle at stake here. This is nothing more than a typical instance of a trial court exercising its discretion to control or limit cross-examination, followed by a typical decision of a state appellate court refusing to disturb the judgment of the trial court and itself concluding that limiting cross-examination had done no substantial harm to the defense. Yet the Court insists on second-guessing the state courts and in effect inviting federal review of every ruling of a state trial judge who believes cross-examination has gone far enough. I would not undertake this task, if for no other reason than that I have little faith in our ability, in fact-bound cases and on a cold record, to improve on the judgment of trial judges and of the state appellate courts who agree with them. I would affirm the judgment.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 19, 1974

Re: No. 72-5794 -- Davis v. Alaska

Dear Chief:

Please join me in your opinion.

Sincerely,



T. M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 18, 1974

Re: No. 72-5794 - Davis v. Alaska

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 18, 1974

No. 72-5794 Davis v. Alaska

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 20, 1974

Re: No. 72-5794 - Davis v. Alaska

Dear Byron:

Please join me in your dissent in this case.

Sincerely,

Wm

Mr. Justice White

Copies to the Conference