

The Burger Court Opinion Writing Database

Patterson v. Warner

415 U.S. 303 (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 21, 1974

Re: 72-5830 - Patterson v. Warner

Dear Harry:

Please join me in your per curiam.

Regards,

WLB

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM O. DOUGLAS

February 14, 1974

Dear Harry:

Please join me in your per curiam
in 72-5830, Patterson v. Warner.

WW
William O. Douglas

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 14, 1974

RE: No. 72-5830 Patterson v. Warner

Dear Harry:

I agree with the Per Curiam you have
prepared in the above.

Sincerely,

Bill

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 14, 1974

72-5830, Patterson v. Warner

Dear Harry,

I am glad to join the Per Curiam you
have circulated in this case.

Sincerely yours,

P.S.
/

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 14, 1974

Re: No. 72-5830 - Patterson v. Warner

Dear Harry:

Please join me in your suggested per
curiam.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 14, 1974

Re: No. 72-5830 -- Clover Patterson v. George Warner, Etc.

Dear Harry:

I agree with your Per Curiam in this case.

Sincerely,



T. M.

Mr. Justice Blackmun

cc: The Conference

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

1st DRAFT

From: Blackmun, J.

SUPREME COURT OF THE UNITED STATES

No. 72-5830

Recirculated: _____

Clover Patterson, Appellant, } On Appeal from the United
v. } States District Court for
George Warner, Etc., et al. } the Southern District of
West Virginia.

[February —, 1974]

PER CURIAM.

We noted probable jurisdiction in this case, 411 U. S. 905 (1973), because it appeared to present a significant issue, under the Due Process and Equal Protection Clauses of the Fourteenth Amendment, as to the validity of that provision of W. Va. Code § 50-15-2 (1966),¹ requiring a double bond as a condition for an appeal from a judgment entered by a justice of the peace in a civil case. See *Lindsey v. Normet*, 405 U. S. 56, 74-79 (1972).

In November 1968 appellant Patterson purchased a used automobile from appellee Graham Motor Company

¹ West Virginia Code § 50-15-2.

"The appeal shall not be granted by the justice unless, within ten days after the judgment is rendered . . . bond with good security, to be approved by the justice, in a penalty double the amount of the judgment, is filed with him, with condition to the effect that the person proposing to appeal will perform and satisfy any judgment which may be rendered against him on such appeal . . . or if he does not wish to stay the execution on such judgment, with condition to pay the costs of such appeal if the judgment appealed from be affirmed. In case there be judgment before the justice against the plaintiff for costs only, and the plaintiff desires to appeal, the bond shall be for costs, conditioned as aforesaid, and in a penalty not exceeding one hundred dollars. . . ."

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 22, 1974

MEMORANDUM TO THE CONFERENCE

Re: No. 72-6023 - Bias v. Gies

This case was a hold for No. 72-5830 ✓ Patterson v. Warner. It is a companion case to Patterson, was heard by the same three-judge court on the same day, and apparently it was agreed that the decision in Patterson would be dispositive of Bias.

In Bias the same West Virginia statute, W. Va. Code § 50-15-2, setting a double bond for appeal from justice court was challenged. The appellant, Bias, had gone through bankruptcy. The appellee, Midland Finance Company, was a listed creditor but brought an action in detinue against Bias to recover the merchandise or, alternatively, damages for \$300. Midland asserted a prior lien. The appellee, Gies, a justice of the peace, entered judgment for \$300 in favor of Midland. Bias was on welfare and indigent and could not post the bond required for an appeal to a court of record.

All this, it seems to me, is precisely the same as Patterson. I, therefore, would vacate the judgment of the three-judge court and remand the case for reconsideration in the light of State ex rel. Reece v. Gies, _____ W. Va. _____, 198 S.E.2d 211 (1973). This is what we did in Patterson, and I suppose the same pattern may be followed here.

H. A. B.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 14, 1974

No. 72-5830 Patterson v. Warner

Dear Harry:

Please join me in your Per Curiam.

Sincerely,

Lewis

Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 14, 1974

Re: No. 72-5830 - Patterson v. Warner

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference