

# The Burger Court Opinion Writing Database

## *Memorial Hospital v. Maricopa County*

415 U.S. 250 (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

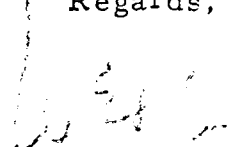
January 22, 1974

Re: No. 72-847 - Memorial Hospital v. Maricopa .

Dear Thurgood:

I am not ready to act and will await other responses.

Regards,



Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

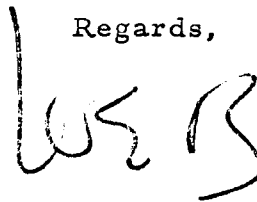
February 22, 1974

Re: No. 72-847 - Memorial Hospital v. Maricopa County

Dear Thurgood:

Please note that I concur in the result.

Regards,

A handwritten signature in dark ink, appearing to be "LWS B", written in a cursive style.

Mr. Justice Marshall

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-847

Memorial Hospital et al.,	} On Appeal from the Supreme Court of Arizona.
Appellants,	
v.	
Maricopa County et al.	

[February —, 1974]

MR. JUSTICE DOUGLAS.

The legal and economic aspects of medical care<sup>1</sup> are enormous; and I doubt if decisions under the Equal Protection Clause of the Fourteenth Amendment are equal to the task. So far as interstate travel *per se* is considered, I share the doubts of my Brother REHNQUIST. The present case, however, turns far more on a different axis. The problem has many aspects. The therapy of Arizona's atmosphere brings many there who suffer from asthma, bronchitis, arthritis, and tuberculosis. Many coming are indigents or become indigent after arrival. Arizona does not deny medical help to "emergency" cases "when immediate hospitalization or medical care is necessary for the preservation or life or limb," Ariz. Rev. Stat. § 11-297A. For others, it requires a 12-month durational residency.

The Act is not aimed at interstate travelers; it applies even to a long-term resident who moves from one county to another. As stated by the Supreme Court of Arizona in the present case, "The requirement applies to all citizens within the state including long term residents of one county who move to another county. Thus, the classification does not single out non-residents nor attempt to penalize interstate travel. The requirement

<sup>1</sup> See appendix to this opinion.

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

January 15, 1974

RE: No. 72-847 Memorial Hospital v. Maricopa  
County

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

February 4, 1974

No. 72-847 -- Memorial Hospital v. Maricopa Cty

Dear Thurgood,

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

Sincerely yours,

P.S.  
✓

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

February 4, 1974

No. 72-847 -- Memorial Hospital v. Maricopa Cty

Dear Thurgood,

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

Sincerely yours,

P.S.  
✓

Mr. Justice Marshall

Copies to the Conference

P. S. -- I have asked my law clerk, Fred Davis,  
to communicate to your law clerk a few  
minor verbal changes that seem to me  
necessary in light of the modifications  
in your most recent circulation.

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 17, 1974

Re: No. 72-847 - Memorial Hospital v. Maricopa  
County

Dear Thurgood:

I should like to await the dissent in this  
case before finally voting.

Sincerely,



Mr. Justice Marshall

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 31, 1974

Re: No. 72-847 - Memorial Hospital v. Maricopa County

Dear Thurgood:

I agree with your result and with much of your opinion except for its treatment of the right to travel, particularly intrastate travel. At this juncture, I would not agree that the federal constitutional right to travel reaches intrastate movements. Your footnote 12, with its citations, invites litigation that I would just as soon avoid right now.

Also, Vlandis v. Kline sufficiently settled for my purposes the matter of in- and out-of-state tuition. I would thus prefer not to treat it as an open question and invite for litigation as footnote 16 does. I shall briefly concur in the judgment.

Sincerely,



Mr. Justice Marshall

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 8, 1974

Re: .No. 72-847 - Memorial Hospital v. Maricopa  
County

---

Dear Thurgood:

Please join me in the current circulation  
of your opinion in this case.

Sincerely,



Mr. Justice Marshall

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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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

Circulated: JAN 10 1974

No. 72-847

Recirculated: \_\_\_\_\_

Memorial Hospital et al.,  
Appellants,  
v.  
Maricopa County et al. } On Appeal from the Supreme  
Court of Arizona.

[January —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court

This case presents an appeal from a decision of the Arizona Supreme Court upholding an Arizona statute requiring a year's residence in a county as a condition to receiving nonemergency hospitalization or medical care at the county's expense. The constitutional question presented is whether this durational residency requirement is repugnant to the Equal Protection Clause as applied by this Court in *Shapiro v. Thompson*, 394 U. S. 618 (1969).

I

Appellant, Henry Evaro, is an indigent suffering from a chronic asthmatic and bronchial illness. In early June of 1971, Mr. Evaro moved from New Mexico to Phoenix in Maricopa County, Arizona. On July 8, 1971, Mr. Evaro had a severe respiratory attack and was sent by his attending physician to appellant, Memorial Hospital, a nonprofit private community hospital. Pursuant to the Arizona statute governing medical care for indigents, Memorial notified the Maricopa County Board of Supervisors that it had in its charge an indigent who might qualify for county care and requested that Evaro be

p. 15

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

2nd DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: JAN 14 1974

No. 72-847

Recirculated: \_\_\_\_\_

Memorial Hospital et al.,  
Appellants,  
v.  
Maricopa County et al. } On Appeal from the Supreme  
Court of Arizona.

[January —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

This case presents an appeal from a decision of the Arizona Supreme Court upholding an Arizona statute requiring a year's residence in a county as a condition to receiving nonemergency hospitalization or medical care at the county's expense. The constitutional question presented is whether this durational residency requirement is repugnant to the Equal Protection Clause as applied by this Court in *Shapiro v. Thompson*, 394 U. S. 618 (1969).

I

Appellant, Henry Evaro, is an indigent suffering from a chronic asthmatic and bronchial illness. In early June of 1971, Mr. Evaro moved from New Mexico to Phoenix in Maricopa County, Arizona. On July 8, 1971, Mr. Evaro had a severe respiratory attack and was sent by his attending physician to appellant, Memorial Hospital, a nonprofit private community hospital. Pursuant to the Arizona statute governing medical care for indigents, Memorial notified the Maricopa County Board of Supervisors that it had in its charge an indigent who might qualify for county care and requested that Evaro be

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3, 7, 10, 11, 13, 14, 15  
16, 18, 20, 21

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-847

From: Marshall, J.

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

Recirculated: 1-4-74 17

Memorial Hospital et al.,  
Appellants,  
v.  
Maricopa County et al. } On Appeal from the Supreme  
Court of Arizona

[January —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

This case presents an appeal from a decision of the Arizona Supreme Court upholding an Arizona statute requiring a year's residence in a county as a condition to receiving nonemergency hospitalization or medical care at the county's expense. The constitutional question presented is whether this durational residency requirement is repugnant to the Equal Protection Clause as applied by this Court in *Shapiro v. Thompson*, 394 U. S. 618 (1969).

I

Appellant, Henry Evaro, is an indigent suffering from a chronic asthmatic and bronchial illness. In early June of 1971, Mr. Evaro moved from New Mexico to Phoenix in Maricopa County, Arizona. On July 8, 1971, Mr. Evaro had a severe respiratory attack and was sent by his attending physician to appellant, Memorial Hospital, a nonprofit private community hospital. Pursuant to the Arizona statute governing medical care for indigents, Memorial notified the Maricopa County Board of Supervisors that it had in its charge an indigent who might qualify for county care and requested that Evaro be

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P. 516, 9

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

4th DRAFT

SUPREME COURT OF THE UNITED STATES

From: Marshall, J.

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

No. 72-847

Recirculated: SEP 1 197

Memorial Hospital et al.,  
Appellants,  
v.  
Maricopa County et al. } On Appeal from the Supreme  
Court of Arizona.

[January —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court

This case presents an appeal from a decision of the Arizona Supreme Court upholding an Arizona statute requiring a year's residence in a county as a condition to receiving nonemergency hospitalization or medical care at the county's expense. The constitutional question presented is whether this durational residency requirement is repugnant to the Equal Protection Clause as applied by this Court in *Shapiro v. Thompson*, 394 U. S. 618 (1969)

I

Appellant, Henry Evaro, is an indigent suffering from a chronic asthmatic and bronchial illness. In early June of 1971, Mr. Evaro moved from New Mexico to Phoenix in Maricopa County, Arizona. On July 8, 1971, Mr. Evaro had a severe respiratory attack and was sent by his attending physician to appellant, Memorial Hospital, a nonprofit private community hospital. Pursuant to the Arizona statute governing medical care for indigents, Memorial notified the Maricopa County Board of Supervisors that it had in its charge an indigent who might qualify for county care and requested that Evaro be

stylistic  
4, 5, 10, 11, 12, 13, 14  
15, 16, 17, 18, 19

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

5th DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

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

No. 72-847

Recirculated: \_\_\_\_\_

Memorial Hospital et al.,  
Appellants,  
v.  
Maricopa County et al. } On Appeal from the Supreme  
Court of Arizona.

[January —, 1974]

MR. JUSTICE MARSHALL delivered the opinion of the Court

This case presents an appeal from a decision of the Arizona Supreme Court upholding an Arizona statute requiring a year's residence in a county as a condition to receiving nonemergency hospitalization or medical care at the county's expense. The constitutional question presented is whether this durational residency requirement is repugnant to the Equal Protection Clause as applied by this Court in *Shapiro v. Thompson*, 394 U. S. 618 (1969).

Appellant, Henry Evaro, is an indigent suffering from a chronic asthmatic and bronchial illness. In early June of 1971, Mr. Evaro moved from New Mexico to Phoenix in Maricopa County, Arizona. On July 8, 1971, Evaro had a severe respiratory attack and was sent by his attending physician to appellant, Memorial Hospital, a nonprofit private community hospital. Pursuant to the Arizona statute governing medical care for indigents, Memorial notified the Maricopa County Board of Supervisors that it had in its charge an indigent who might qualify for county care and requested that Evaro be

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

January 14, 1974

Dear Thurgood:

Re: No. 72-847 - Memorial Hospital v. Maricopa County

At this point, I would be unable to do more than concur in the result. For the time being, I shall await possible expressions from others.

Sincerely,



Mr. Justice Marshall

Copies to the Conference



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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 8, 1974

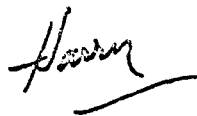
Dear Thurgood:

Re: No. 72-847 - Memorial Hospital, et al. v.  
Maricopa County, et al.

Will you please note the following at the end of your  
opinion:

"Mr. Justice Blackmun concurs  
in the result."

Sincerely,



Mr. Justice Marshall

Copies to the Conference

January 16, 1974

No. 72-847 Memorial Hospital v. Maricopa County

Dear Thurgood:

In light of the changes you have indicated to me and to be incorporated in your next circulation, please join me.

Sincerely,

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

January 18, 1974

No. 72-847 Memorial Hospital v. Maricopa County

Dear Thurgood:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Marshall

CC: The Conference

LFP/gg

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 14, 1974

Re: No. 72-847 - Memorial Hospital v. Maricopa County

Dear Thurgood:

In due course I plan to circulate a dissent in this case.

Sincerely,

*WHR*

Mr. Justice Marshall

Copies to the Conference

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 72-847

1/30/74

Memorial Hospital et al.,  
Appellants,  
v.  
Maricopa County et al. } On Appeal from the Supreme  
Court of Arizona.

[February —, 1974]

MR. JUSTICE REHNQUIST, dissenting.

I

The State of Arizona provides free medical care for indigents. Confronted, in common with its 49 sister States, with the assault of spiraling health and welfare costs upon limited state resources, it has felt bound to require that recipients meet three standards of eligibility.<sup>1</sup> First, they must be indigent, unemployable, or unable to provide their own care. Second, they must be residents of the county in which they seek aid, and third, they must have maintained their residency for a period of one year. These standards, however, apply only to

<sup>1</sup> A. R. S. § 11-297 A reads as follows:

"A. Except in emergency cases when immediate hospitalization or medical care is necessary for the preservation of life or limb no person shall be provided hospitalization, medical care or outpatient relief under the provision of this article without first filing with a member of the board of supervisors of the county in which he resides a statement in writing, subscribed and sworn to under oath, that he is an indigent as shall be defined by rules and regulations of the state department of economic security, an unemployable totally dependent upon the state or county government for financial support, or an employable of sworn low income without sufficient funds to provide himself necessary hospitalization and medical care, and that he has been a resident of the county for the preceding twelve months."