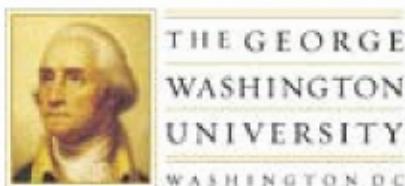# The Burger Court Opinion Writing Database

Gonzalez v. Automatic Employees Credit Union
419 U.S. 90 (1974)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University

My File on.

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

From: White, J.

Circulated: _2 - 21 - 74_

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

ALFREDO GONZALEZ, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITU- ATED *v.* AUTOMATIC EMPLOYEES CREDIT UNION ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

No. 73–858. Decided February —, 1974

Memorandum for the Conference.

I took this case off of Tuesday's order list in order to circulate the following:

Appellant Gonzalez, whose automobile was repossessed by appellee Mercantile National Bank of Chicago, sued on behalf of himself and a class, under 28 U. S. C. § 1983, claiming that §§ 9–503 and 9–504 of the Illinois Commercial Code were unconstitutional insofar as these sections permit and authorize the repossession and subsequent sale of a debtor's property upon an alleged default without prior notice or opportunity to be heard. A three-judge court dismissed the complaint for lack of standing. 363 F. Supp. 143 (ND Ill. 1973). The court observed that the transaction of which plaintiff complained involved an alleged violation of the challenged statutes. The court reasoned that if appellant was not in default, as alleged, his remedy was for damages for wrongful conversion, under § 9–507 of the Illinois Code, and that since the automobile of Gonzalez had already been repossessed and resold, and title transferred by the Secretary of State before Gonzalez became a named plaintiff in the action, granting declaratory and injunctive relief would be a "useless act."

Appellant asserts that damages for wrongful conversion is not an adequate remedy for the injury suffered as a