

# The Burger Court Opinion Writing Database

## *North Georgia Finishing, Inc. v. Di-Chem, Inc.*

419 U.S. 601 (1975)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University in St. Louis

Forrest Maltzman, George Washington University



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

CHAMBERS OF  
THE CHIEF JUSTICE

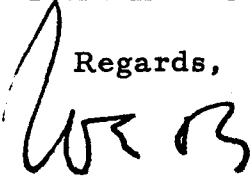
January 17, 1975

Re: No. 73-1121 - North Georgia Finishing, Inc. v. Di-Chem

Dear Harry:

Will you please note at the bottom of your dissent  
the following:

"MR. CHIEF JUSTICE BURGER dissents  
for the reasons stated in paragraph 5 of the  
opinion of MR. JUSTICE BLACKMUN."

Regards,  


Mr. Justice Blackmun

Copies to the Conference

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U.S. SUPREME COURT RECORDS

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

December 19, 1974

Dear Byron:

Please join me in your opinion  
in 73-1121, NORTH GEORGIA FINISHING v.  
DI-CHEM, INC.

WOD/Gardner

William O. Douglas

Mr. Justice White

cc: The Conference

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SECRET NO ADVANCE IN

## REPRODUCED FROM THE COLLECTION

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# AN ILLUSTRATION OF CONCEPTS

**Dear Byron:**

Sincerely,

BC

Mr. Justice White  
cc: The Conference

✓

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

✓

CHAMBERS OF  
JUSTICE POTTER STEWART

December 19, 1974

Re: No. 73-1121, No. Georgia Finishing, Inc.  
v. Di-Chem, Inc.

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Dear Byron,

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

Sincerely yours,

P.S.

Mr. Justice White

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SSRCNOCU BU ADVYDI IN

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1121

Filed: Stewart, J.  
Circulated: JAN 17 1975

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

North Georgia Finishing, Inc., Petitioner,  
v.  
Di-Chem, Inc. } On Writ of Certiorari to the  
Supreme Court of Georgia.

[January —, 1975]

MR. JUSTICE STEWART, concurring in the judgment and opinion of the Court.

It is gratifying to note that my report of the demise of *Fuentes v. Shevin*, 407 U. S. 67, see *Mitchell v. W. T. Grant Co.*, 416 U. S. 600, 629-636, seems to have been greatly exaggerated. Cf. S. Clemens, Cable from Europe to the Associated Press, reprinted in II A. Paine, Mark Twain: A Biography 1039 (1912).

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SECTION OF RECORDS

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: 12-19-74

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1121

North Georgia Finishing, }  
Inc., Petitioner, } On Writ of Certiorari to the  
v. } Supreme Court of Georgia.  
Di-Chem, Inc. }

[December —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

Under the statutes of the State of Georgia, plaintiffs in pending suits "are entitled to the process of garnishment." Ga. Code Ann. § 46-101.<sup>1</sup> To employ the

<sup>1</sup> The relevant provisions of the Georgia Code Annotated are as follows:

§ 46-101

*"Right to writ; wages exempt until after final judgment*—In cases where suit shall be pending, or where judgment shall have been obtained, the plaintiff shall be entitled to the process of garnishment under the following regulations: Provided, however, no garnishment shall issue against the daily, weekly, or monthly wages of any person residing in this State: Provided, further, that the wages of a share cropper shall also be exempt from garnishment until after final judgment shall have been had against said share cropper: Provided, further, that nothing in this section shall be construed as abridging the right of garnishment in attachment before judgment is obtained. (Act 1882, Cobb, 77. Acts 1855-6, page 36; 1933, page 35; 1952, page 153.)"

§ 46-102

*"Affidavit; necessity and contents. Bond*—The plaintiff, his agent, or attorney at law shall make affidavit before some officer authorized to issue an attachment, or the clerk of any court of record in which the said garnishment is being filed or in which the main case is filed, stating the amount claimed to be due in such

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 30, 1974

Re: No. 73-1121 -- North Georgia Finishing, Inc. v. Di-Chem, Inc.

Dear Byron:

Please join me.

Sincerely,

*T.M.*

T. M.

Mr. Justice White

cc: The Conference

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U.S. SUPREME COURT RECORDS



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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

December 20, 1974

Re: No. 73-1121 - North Georgia Finishing, Inc.  
v. Di-Chem, Inc.

Dear Byron:

I shall probably prepare a dissent in this case in  
due course.

Sincerely,

*Harry*

Mr. Justice White

cc: The Conference

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IN THE MANUSCRIPT DIVISION

U.S. SUPREME COURT RECORDS

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

SUPREME COURT OF THE UNITED STATES

No. 73-1121

Circulated: 1/9/75

Recirculated:

North Georgia Finishing,  
Inc., Petitioner,  
v.  
Di-Chem, Inc. } On Writ of Certiorari to the  
Supreme Court of Georgia,

[January —, 1975]

MR. JUSTICE BLACKMUN, dissenting.

The Court once again—for the third time in less than three years—struggles with what it regards as the due process aspects of a State's old and long-unattacked commercial statutes designed to afford a way for relief to a creditor against a delinquent debtor. On this third occasion, the Court, it seems to me, does little more than make very general and very sparse comparisons of the present case with *Fuentes v. Shevin*, 407 U. S. 67 (1972), on the one hand, and with *Mitchell v. W. T. Grant Co.*, 416 U. S. 600 (1974), on the other; concludes that this case resembles *Fuentes* more than it does *Mitchell*; and then strikes down the Georgia statutory structure as offensive of due process. One gains the impression, particularly from the final paragraph of its opinion, that the Court is endeavoring to say as little as possible in explaining just why the Supreme Court of Georgia is being reversed. And as a result, the corresponding commercial statutes of all other States, similar to but not exactly like those of Florida or Pennsylvania or Louisiana or Georgia, are left in questionable constitutional status, with little or no applicable standard by which to measure and determine their validity under the Fourteenth Amendment. This, it seems to me, is an undesirable state of affairs, and I dissent. I do so for a number of reasons:

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U.S. SUPREME COURT RECORDS

pp 1,4,5,7

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1121

From: Blackmun, J.

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

Recirculated: 1/17/75

North Georgia Finishing,  
Inc., Petitioner,  
v.  
Di-Chem, Inc.

On Writ of Certiorari to the  
Supreme Court of Georgia.

[January 22, 1975]

MR. JUSTICE BLACKMUN, with whom MR. JUSTICE REHNQUIST joins, dissenting.

The Court once again—for the third time in less than three years—struggles with what it regards as the due process aspects of a State's old and long-unattacked commercial statutes designed to afford a way for relief to a creditor against a delinquent debtor. On this third occasion, the Court, it seems to me, does little more than make very general and very sparse comparisons of the present case with *Fuentes v. Shevin*, 407 U. S. 67 (1972), on the one hand, and with *Mitchell v. W. T. Grant Co.*, 416 U. S. 600 (1974), on the other; concludes that this case resembles *Fuentes* more than it does *Mitchell*; and then strikes down the Georgia statutory structure as offensive of due process. One gains the impression, particularly from the final paragraph of its opinion, that the Court is endeavoring to say as little as possible in explaining just why the Supreme Court of Georgia is being reversed. And, as a result, the corresponding commercial statutes of all other States, similar to but not exactly like those of Florida or Pennsylvania or Louisiana or Georgia, are left in questionable constitutional status, with little or no applicable standard by which to measure and determine their validity under the Fourteenth Amendment. This, it seems to me, is an undesirable state of affairs, and I dissent. I do so for a number of reasons:

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

December 27, 1974

No. 73-1121 North Georgia v. Di-Chem

Dear Byron:

I will concur in the reversal, but now plan to write a concurring opinion addressed more narrowly - as I view it - to the infirmity in the Georgia statutes.

Sincerely,

*L. Powell*

Mr. Justice White

lfp/ss

cc: The Conference

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U.S. DEPARTMENT OF COMMERCE

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

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 73-1121

From: Powell, J.

Circulated: JAN 9 1975

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

North Georgia Finishing, }  
 Inc., Petitioner, } On Writ of Certiorari to the  
 v. } Supreme Court of Georgia.  
 Di-Chem, Inc. }

Jan 9 1975

[January —, 1975]

MR. JUSTICE POWELL, concurring in the judgment.

I join in the Court's judgment, but I cannot concur in the opinion as I think it sweeps more broadly than is necessary and appears to resuscitate *Fuentes v. Shevin*, 407 U. S. 67 (1972). Only last term in *Mitchell v. W. T. Grant*, 416 U. S. 600 (1974), the Court significantly narrowed the precedential scope of *Fuentes*. In my concurrence in *Mitchell*, I noted:

"The Court's decision today withdraws significantly from the full reach of [*Fuentes*'] principle, and to this extent I think it fair to say that the *Fuentes* opinion is overruled." 416 U. S., at 623 (POWELL, J., concurring).

Three dissenting Justices, including the author of *Fuentes*, went further in their description of the impact of *Mitchell*:

"[T]he Court today has unmistakably overruled a considered decision of this Court that is barely two years old, without pointing to any change . . . that might justify this total disregard of *stare decisis*." *Id.*, at 629, 635 (STEWART, J., dissenting).

The Court's opinion in this case, relying substantially on *Fuentes*, suggests that that decision will again be read as calling into question much of the previously settled law

WM. Douglas  
 OCT 74

V

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 9, 1975

Re: No. 73-1121 - North Georgia Finishing v. Di-Chem

Dear Harry:

Please join me in your dissenting opinion in this case.

Sincerely,

Wm

Mr. Justice Blackmun

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U.S. SUPREME COURT