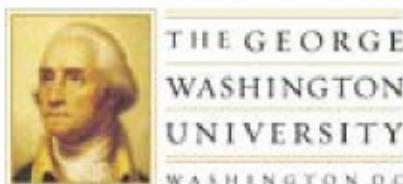


# The Burger Court Opinion Writing Database

*Wood v. Strickland*

420 U.S. 308 (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

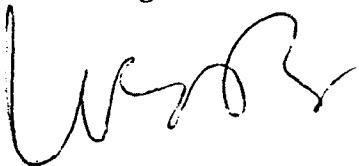
February 17, 1975

Re: 73-1285 - Wood v. Strickland

Dear Lewis:

Please join me in your concurring and dissenting opinion.

Regards,



Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

December 9, 1974

Dear Byron:

In 73-1285, WOOD v. STRICKLAND  
please join me in your proposed disposition  
of December 7, 1974.

WJD  
William O. Douglas

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

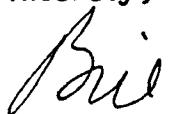
December 10, 1974

RE: No. 73-1285 Wood v. Strickland, etc.

Dear Byron:

I agree.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

December 16, 1974

No. 73-1285 - Wood v. Strickland

Dear Byron:

I joined the Memorandum and I also join the  
opinion in the above.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 9, 1974

Re: No. 73-1285, Wood v. Strickland

Dear Byron,

I agree with your memorandum in this case.

Sincerely yours,

PJ

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

December 7, 1974

MEMORANDUM FOR THE CONFERENCE

Re: No. 73-1285 - Wood v. Strickland

Although it may be that I was in the minority at Conference with respect to the immunity issue in this case, I was requested to submit an initial memorandum proposing a disposition in this case. The attached should serve as a point of departure.

  
B.R.W.

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.

2nd DRAFT

Circulated: 12-7-74

Recirculated:

## SUPREME COURT OF THE UNITED STATES

No. 73-1285

John P. Wood et al., Petitioners,  
v.  
Peggy Strickland, A Minor, by  
Mr. and Mrs. Virgil Justice,  
Her Parents and Next  
Friends, et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Eighth Circuit.

[December —, 1974]

### Memorandum of MR. JUSTICE WHITE.

Respondents Peggy Strickland and Virginia Crain brought this lawsuit against petitioners, who were members of the school board at the time in question, two school administrators, and the Special School District of Mena, Arkansas,<sup>1</sup> purporting to assert a cause of action under 42 U. S. C. § 1983, and claiming that their federal constitutional rights to due process were infringed under color of state law by their expulsion from the Mena Public High School on the grounds of their violation of a school regulation prohibiting the use or possession of intoxicating beverages at school or school activities. The complaint as amended prayed for compensatory and punitive damages against all petitioners, injunctive relief allowing respondents to resume attendance, preventing

<sup>1</sup> The Court of Appeals affirmed the directed verdicts awarded by the District Court to P. T. Waller, the principal of Mena High School at the time in question, S. L. Inlow, then superintendent of schools, and the Mena Special School District. 485 F. 2d 186, 191 (1973). Since respondents have not cross-petitioned, the cases of these three parties are not before the Court.

STRUCTURAL CHANGES THROUGHOUT.  
SEE PAGES: 1 10

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

3rd DRAFT

From: White, J.

**SUPREME COURT OF THE UNITED STATES**

Circulated:

Recirculated: 12-12-74

No. 73-1285

John P. Wood et al., Petitioners,  
v.  
Peggy Strickland, A Minor, by  
Mr. and Mrs. Virgil Justice,  
Her Parents and Next  
Friends, et al. } On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Eighth Circuit.

[December —, 1974]

MR. JUSTICE WHITE delivered the opinion of the Court.

Respondents Peggy Strickland and Virginia Crain brought this lawsuit against petitioners, who were members of the school board at the time in question, two school administrators, and the Special School District of Mena, Arkansas,<sup>1</sup> purporting to assert a cause of action under 42 U. S. C. § 1983, and claiming that their federal constitutional rights to due process were infringed under color of state law by their expulsion from the Mena Public High School on the grounds of their violation of a school regulation prohibiting the use or possession of intoxicating beverages at school or school activities. The complaint as amended prayed for compensatory and punitive damages against all petitioners, injunctive relief allowing respondents to resume attendance, preventing

<sup>1</sup> The Court of Appeals affirmed the directed verdicts awarded by the District Court to P. T. Waller, the principal of Mena High School at the time in question, S. L. Inlow, then superintendent of schools, and the Mena Special School District. 485 F. 2d 186, 191 (1973). Since respondents have not cross-petitioned, the cases of these three parties are not before the Court.

Supreme Court of the United States  
Washington, D. C. 20542

✓

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 8, 1975

Re: No. 73-1285 - Wood v. Strickland

Dear Lewis:

I have looked over your suggestion in this case. I suggest you write and circulate. The others who have joined me can then see what you have in mind.

Sincerely,



Mr. Justice Powell

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 7

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:

Recirculated: 2-21-75

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-1285

John P. Wood et al., Petitioners,  
v.  
Peggy Strickland, A Minor, by  
Mr. and Mrs. Virgil Justice,  
Her Parents and Next  
Friends, et al. } On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Eighth Circuit.

[February 25, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

Respondents Peggy Strickland and Virginia Crain brought this lawsuit against petitioners, who were members of the school board at the time in question, two school administrators, and the Special School District of Mena, Arkansas,<sup>1</sup> purporting to assert a cause of action under 42 U. S. C. § 1983, and claiming that their federal constitutional rights to due process were infringed under color of state law by their expulsion from the Mena Public High School on the grounds of their violation of a school regulation prohibiting the use or possession of intoxicating beverages at school or school activities. The complaint as amended prayed for compensatory and punitive damages against all petitioners, injunctive relief allowing respondents to resume attendance, preventing

<sup>1</sup> The Court of Appeals affirmed the directed verdicts awarded by the District Court to P. T. Waller, the principal of Mena Public High School at the time in question, S. L. Inlow, then superintendent of schools, and the Mena Special School District. 485 F. 2d 186, 191 (1973). Since respondents have not cross-petitioned, the cases of these three parties are not before the Court.

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

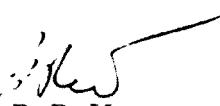
CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 27, 1975

MEMORANDUM TO THE CONFERENCE

Re: No. 73-6980 - Swigert v. Miller

This case was held for Wood v. Strickland,  
No. 73-1285. It involves a § 1983 suit for  
damages claiming denials of due process and equal  
protection because of being excluded from school.  
Summary judgment for school authorities was granted  
on immunity grounds. Neither the immunity standard  
employed by the trial court nor that used by the  
appellate court appears to conform to Strickland.  
I would vacate and remand for reconsideration in  
the light of that case.

  
B.R.W.

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 10, 1974

Re: No. 73-1285 -- John P. Wood et al. v. Peggy Strickland

Dear Byron:

I am in general agreement with your memorandum.

Sincerely,



T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 17, 1974

Re: No. 73-1285 -- John P. Wood et al. v. Peggy Strickland

Dear Byron:

Please join me in your opinion.

Sincerely,

*T.M.*  
T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

January 16, 1975

Re: No. 73-1285 - Wood v. Strickland

Dear Lewis:

I hereby join your opinion concurring in part and dissenting in part.

On what I think is a careful study of Byron's opinion and yours, I get the impression that actually you are not far apart. The last sentence of Byron's part II on page 14 is, I think, essentially what you are saying in your opinion. I therefore am led to the conclusion that the primary difficulty is with such phrases as "settled, indisputable law" and "basic, unquestioned constitutional rights." I might wish that this kind of difference could be accommodated so that the Court would have a unanimous opinion. Failing that, I join you.

Sincerely,



Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

December 9, 1974

No. 73-1285 WOOD v. STRICKLAND

MEMORANDUM TO THE CONFERENCE:

Although I believe I can join in Parts III and IV of Byron's memorandum, I do not agree that a school board member may be held liable in damages under § 1983 for not knowing "the basic, unquestioned constitutional rights of his charges". This is a higher level of knowledge than could be expected of Supreme Court Justices.

Accordingly, I will circulate a dissent from Part II of Byron's memorandum if it becomes a Court opinion.

L.F.P.

L.F.P., Jr.

January 7, 1975

No. 73-1285, Wood v. Strickland

Dear Byron:

In accord with our talk, I write to suggest a modification of your draft opinion that would meet my concern.

I am with you all the way to the first full paragraph on page 13. That paragraph, which carries over to near the bottom of page 14, imposes a duty on school board members not to act in "ignorance or disregard of settled, indisputable law". In my view, this is a considerably higher standard than the more generalized one heretofore approved by the Court. As I have indicated, I think the Scheuer formulation is about as specific as one can be in this area.

With this thought in mind, you might consider a substitution for the last paragraph in your Part II reading along the following lines:

The disagreement between the Court of Appeals and the District Court over the immunity standard in this case has been put in terms of an "objective" versus a "subjective" test of good faith. As we

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. 73-1285

From: Powell, J.

Circulated: JAN 13 1974

John P. Wood et al., Petitioners,  
v.  
Peggy Strickland, A Minor, by  
Mr. and Mrs. Virgil Justice,  
Her Parents and Next  
Friends, et al.

On Writ of Certiorari  
to the United States  
Court of Appeals for  
the Eighth Circuit.

Recirculated:

[January —, 1975]

MR. JUSTICE POWELL, concurring in part and dissenting in part.

I join in Parts I, III, and IV of the Court's opinion, and agree that the judgment of the Court of Appeals should be vacated and the case remanded. I dissent from Part II which appears to impose a higher standard of care upon public school officials, sued under § 1983, than that heretofore required of any other official.

The holding of the Court on the immunity issue is set forth in the margin.<sup>1</sup> It would impose personal

<sup>1</sup> The disagreement between the Court of Appeals and the District Court over the immunity standard in this case has been put in terms of an "objective" versus a "subjective" test of good faith. As we see it, the appropriate standard necessarily contains elements of both. The official must himself be acting sincerely and with a belief that he is doing right, but an act violating a student's constitutional rights can be no more justified by ignorance or disregard of settled, indisputable law on the part of one entrusted with supervision of students' daily lives than by the presence of actual malice. To be entitled to a special exemption from the categorical remedial language of § 1983 in a case in which his action violated a student's constitutional rights, a school board member, who has voluntarily undertaken the task of supervising the operation of the school and the activities of the students, must be held to a standard of conduct

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 14, 1975

Re: No. 73-1285 - Wood v. Strickland

Dear Lewis:

Please join me in the opinion, concurring in part  
and dissenting in part, which you have prepared in this case.

Sincerely,



Mr. Justice Powell

Copies to the Conference