

# The Burger Court Opinion Writing Database

## *Stanton v. Stanton*

421 U.S. 7 (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

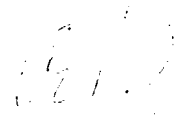
CHAMBERS OF  
THE CHIEF JUSTICE

April 7, 1975

Re: 73-1461 - Stanton v. Stanton

Dear Harry:

Please join me.

Regards,  


Mr. Justice Blackmun

Copies to the Conference


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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

April 14, 1975

Dear Harry:

Please join me in your  
opinion of STANTON v. STANTON, 73-1461.

  
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.

March 17, 1975

RE: No. 73-1461 Stanton v. Stanton

Dear Harry:

I agree.

Sincerely,

*Bill*

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

March 14, 1975

Re: No. 73-1461, Stanton v. Stanton

Dear Harry,

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

Sincerely yours,

73.  
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Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 14, 1975

Re: No. 73-1461 - Stanton v. Stanton

Dear Harry:

Please join me in your opinion in this  
case.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

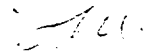
March 18, 1975

Re: No. 73-1461 -- Thelma B. Stanton v.  
James Lawrence Stanton, Jr.

Dear Harry:

Please join me.

Sincerely,



T.M.

Mr. Justice Blackmun

cc: The Conference

Mr. Justice Blackmun ✓  
 Mr. Justice Brennan ✓  
 Mr. Justice Marshall ✓  
 Mr. Justice Powell ✓  
 Mr. Justice Rehnquist ✓

From: Blackmun, J.

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1st DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-1461

Thelma B. Stanton, Appellant, v. James Lawrence Stanton, Jr.	}	On Appeal from the Supreme Court of Utah.
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[March —, 1975]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the issue whether a state statute specifying for males a greater age of majority than it specifies for females denies, in the context of a parent's obligation for support payments for his children, the equal protection of the laws guaranteed by § 1 of the Fourteenth Amendment.

## I

Appellant Thelma B. Stanton and appellee James Lawrence Stanton, Jr. were married at Elko, Nevada, in February 1951. At the suit of the appellant, they were divorced in Utah on November 29, 1960. They have a daughter, Sherri Lynn, born in February 1953, and a son, Rick Arlund, born in January 1955. Sherri became 18 on February 12, 1971, and Rick on January 29, 1973.

During the divorce proceedings in the District Court of Salt Lake County, the parties entered into a stipulation as to property, child support, and alimony. The court awarded custody of the children to their mother and incorporated provisions of the stipulation into its Findings and Conclusions and into its Decree of Divorce. Spe-

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

From: Blackmun, J.

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STYLISTIC CHANGES

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 73-1461

Thelma B. Stanton,  
Appellant,  
v.  
James Lawrence Stanton, Jr. } On Appeal from the Su-  
preme Court of Utah.

[March —, 1975]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

This case presents the issue whether a state statute specifying for males a greater age of majority than it specifies for females denies, in the context of a parent's obligation for support payments for his children, the equal protection of the laws guaranteed by § 1 of the Fourteenth Amendment.

### I

Appellant Thelma B. Stanton and appellee James Lawrence Stanton, Jr., were married at Elko, Nevada, in February 1951. At the suit of the appellant, they were divorced in Utah on November 29, 1960. They have a daughter, Sherri Lyn, born in February 1953, and a son, Rick Arlund, born in January 1955. Sherri became 18 on February 12, 1971, and Rick on January 29, 1973.

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## Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 15, 1975

Re: Holds for No. 73-1461 - Stanton v. Stanton

## MEMORANDUM TO THE CONFERENCE:

1. No. 74-255, Murphy v. Murphy. This case was also a hold for Weinberger v. Wiesenfeld.

Mr. Murphy sued for divorce. His wife counterclaimed for alimony and attorney's fees. He moved to dismiss those aspects of her counterclaim on the ground that the Georgia statutes that authorize them applied only to wives and not to husbands, and therefore were unconstitutional. The Supreme Court granted the motion. The Supreme Court of Georgia reversed on the authority of Kahn v. Shevin.

This situation, I feel, is different from that involved in Stanton v. Stanton. It is, in many respects, more akin to Wiesenfeld. Mr. Murphy's posture might be stronger if he were claiming alimony rather than resisting it. Because I feel that Stanton is not controlling, I make no specific recommendation as to Murphy and leave to each of you the decision to grant or deny.

2. No. 74-6038, Shepherd v. Shepherd. This case is essentially the same as Murphy v. Murphy. It, too, comes to us from the Supreme Court of Georgia. Counsel for Murphy is also counsel for Shepherd. The respondent wife brought an action for alimony. The husband moved to dismiss on the ground that the Georgia alimony statutes were unconstitutional. This motion to dismiss was denied. The Georgia Supreme Court affirmed, holding that Murphy v. Murphy controlled. This case and Murphy should probably be disposed of in the same way. In Shepherd, there are assertions that the constitutional claim was not timely raised in the state courts; that, because of the husband's comparatively better financial situation, he would not be entitled to alimony even in the absence of a statutory bar; and that he is not entitled to proceed in forma pauperis. Because of the presence of these collateral issues in Shepherd, I would be inclined to conclude that if one of these cases is to be taken, Murphy is to be preferred and Shepherd should be held for Murphy. Murphy also was the first case here.

  
H. A. B.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 14, 1975

No. 73-1461 Stanton v. Stanton

Dear Harry:

Please join me.

Sincerely,

*L. Powell*

Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

1st DRAFT

From: Rehnquist

**SUPREME COURT OF THE UNITED STATES**

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No. 73-1461

Thelma B. Stanton,  
Appellant,  
v.  
James Lawrence Stanton, Jr. } On Appeal from the Su-  
preme Court of Utah.

[April —, 1975]

MR. JUSTICE REHNQUIST, dissenting.

The Court views this case as requiring a determination of whether the Utah statute specifying that males must reach a higher age than females before attaining their majority denies females the equal protection of the laws guaranteed by § 1 of the Fourteenth Amendment to the United States Constitution. The Court regards the constitutionality of § 15-2-1, Utah Code Ann. 1953, as properly at issue because of the manner in which the Supreme Court of Utah approached and decided the case. But this Court is subject to constraints with respect to constitutional adjudication which may well not bind the Supreme Court of Utah. This Court is bound by the rule, "to which it has rigidly adhered, . . . never to formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied." *Liverpool, N. Y. & Phil. S. S. Co. v. Commissioners of Emigration*, 113 U. S. 33, 39 (1885), and we try to avoid deciding constitutional questions which "come to us in highly abstract form," *Rescue Army v. Municipal Court*, 331 U. S. 549, 575 (1947). Fidelity to these longstanding rules dictates that we have some regard for the factual background of this case, as fully outlined in the Court's opinion, before deciding the constitutional question that has been tendered to us.