

# The Burger Court Opinion Writing Database

## *Roe v. Norton*

422 U.S. 391 (1975)

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



*Just - Demand met of the 3 on May 5*

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

*OK  
LFD*

CHAMBERS OF  
THE CHIEF JUSTICE

March 31, 1975

Re: 73-6033 - Roe v. Norton

MEMORANDUM TO THE CONFERENCE:

This case will be taken up at Conference on May 9,  
and Bill Brennan will report on its status at that  
time.

Regards,

*WBO*

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

CHAMBERS OF  
THE CHIEF JUSTICE

April 30, 1975

Re: 73-6033 - Roe v. Norton

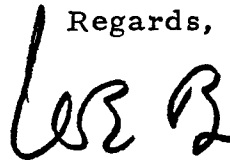
Dear Bill:

I have your proposed per curiam in the above.

It now seems to me that the remand should also call  
"for consideration in light of our intervening opinion  
in Huffman v. Pursue; see also Younger v. Harris."

In addition, on Lines 9-10, p. 2, would it not be safer  
to recite that P. L. 93-647 "was enacted" rather than  
"become law"?

Regards,



Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

May 1, 1975

Re: 73-6033 - Roe v. Norton

Dear Bill:

Please join me in your per curiam.

Regards,

WBS

Mr. Justice Brennan

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U.S. DEPARTMENT OF CONGRESS

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

June 19, 1975

Re: No. 73-6033 - Roe v. Norton

Dear Bill:

Please add the following statement to your per curiam: Mr. Justice Douglas concurs except with respect to *Younger v. Harris*, 401 U.S. 37 (1971) and *Huffman v. Pursue*, --U.S.-- (1975).

Sincerely,

William O. Douglas

Mr. Justice Brennan

cc: The Conference

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THE MANUSCRIPT DIVISION

FOR ADVANCEMENT OF THE COURTS

*WJB*  
*4-29-75*  
*4-29-75*

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

From: Brennan, J.

Circulated: 4-29-75

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

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 73-6033

Sharon Roe et. al.,  
Appellants,  
v.  
Nicholas Norton, Etc. } On Appeal from the United  
States District Court for the  
District of Connecticut.

[May —, 1975]

PER CURIAM.

Appellants, mothers of illegitimate children receiving AFDC assistance, and the children, commenced this action challenging § 52-440b, Conn. Gen. Stat.,\* which requires the mother of an illegitimate child to divulge to designated officials the name of the putative father of

\*Section 52-440b, Conn. Gen. Stat., provides:

“(a) If the mother of any child born out of wedlock, or the mother of any child born to any married woman during marriage which child shall be found not to be the issue of the marriage terminated by a divorce decree or by decree of any court of competent jurisdiction, fails or refuses to disclose the name of the putative father of such child under oath to the welfare commissioner, if such child is a recipient of public assistance, or to a selectman of a town in which such child resides, if such child is a recipient of general assistance, or otherwise to a guardian or guardian ad litem of such child, such mother may be cited to appear before any judge of the circuit court and compelled to disclose the name of the putative father under oath and to institute an action to establish the paternity of said child.

“(b) Any woman who, having been cited to appear before a judge of the circuit court pursuant to subsection (a), fails to appear or fails to disclose or fails to prosecute a paternity action may be found to be in contempt of said court and may be fined not more than two hundred dollars or imprisoned not more than one year or both.”

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- to: The Chief Justice
- Mr. Justice Douglas
- Mr. Justice Stewart
- Mr. Justice White
- ✓ Mr. Justice Marshall
- Mr. Justice Blackmun
- Mr. Justice Powell
- Mr. Justice Rehnquist

From: Brennan, J.

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

Recirculated: 5-1-75

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-6033

Sharon Roe et. al., Appellants, v. Nicholas Norton, Etc.	}	On Appeal from the United States District Court for the District of Connecticut.
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[May —, 1975]

PER CURIAM.

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“(b) Any woman who, having been cited to appear before a judge of the circuit court pursuant to subsection (a), fails to appear or fails to disclose or fails to prosecute a paternity action may be found to be in contempt of said court and may be fined not more than two hundred dollars or imprisoned not more than one year or both.”

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U.S. DEPARTMENT OF JUSTICE

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

1546

Sharon, J.

Case filed: \_\_\_\_\_

Refiled: 6/19/75

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-6033

Sharon Roe et. al.,  
Appellants,  
v.  
Nicholas Norton, Etc. } On Appeal from the United  
States District Court for the  
District of Connecticut.

[May —, 1975]

PER CURIAM.

Appellants, mothers of illegitimate children receiving AFDC assistance, and the children, commenced this action challenging § 52-440b, Conn. Gen. Stat.,\* which requires the mother of an illegitimate child to divulge to designated officials the name of the putative father of

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“(b) Any woman who, having been cited to appear before a judge of the circuit court pursuant to subsection (a), fails to appear or fails to disclose or fails to prosecute a paternity action may be found to be in contempt of said court and may be fined not more than two hundred dollars or imprisoned not more than one year or both.”



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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 29, 1975

Re: No. 73-6033, Roe v. Norton

Dear Bill,

I agree with the Per Curiam you have circulated in this case. It is my understanding that the consensus at the Conference was that this Per Curiam should not be announced until quite late in the Term, inasmuch as the relevant amendment of the Social Security Act is not to become effective until July 1.

Sincerely yours,

Mr. Justice Brennan

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OF THE MANUSCRIPT DIVISION

U.S. DEPARTMENT OF JUSTICE

✓

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE


April 30, 1975

Re: No. 73-6033 - Roe v. Norton

Dear Bill:

Please join me in your suggested per  
curiam.

Sincerely,



Mr. Justice Brennan

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THE MANUSCRIPT DIVISION

OF THE SUPREME COURT OF THE UNITED STATES

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 29, 1975

Re: No. 73-6033 -- Sharon Roe v. Nicholas Norton

Dear Bill:

I agree with your proposed memorandum.

Sincerely,

*T.M.*

T. M.

Mr. Justice Brennan

cc: The Conference

REPRODUCED FROM THE COLLECTION OF THE MANUSCRIPT DIVISION

SECTION OF ADVANCE

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

October 15, 1974

Re: No. 73-6033 - Roe v. Norton

Dear Chief:

On the list of chambers matters for last week was a motion by the appellants in this case for a divided argument and for additional time. The recommendation was that the divided argument be granted and the additional time denied.

On further reflection, I am concerned about the denial of the motion for additional time. I therefore asked Mr. Rodak to omit the case from today's order list and to relist it for the October 18 conference.

The case concerns the constitutional validity of a Connecticut statute which requires the mother of an illegitimate child, receiving welfare, to disclose the name of the father and to institute suit to establish paternity. Failure on her part to do this may result in a finding of contempt and subjects the mother to a fine and imprisonment up to one year. It seems to me that the workings of this statute are such that the interests of the mother and those of the children are not necessarily the same. Indeed, the District Court recognized this and, on its own motion, appointed counsel to represent the children despite the fact that the plaintiff-appellants (the unwed mothers) sued on their own behalf and on behalf of their children. Separate briefs have been filed here for the mothers and for the children. In June, we granted the children leave to proceed in forma pauperis.

In view of this, our grant of a divided argument, I feel, is entirely proper. I am inclined, also, to feel that the request for additional time has some merit. I personally would be inclined to allow an additional ten minutes for each side. The Conference, of course, may not agree, but I felt the matter was important enough for us to take another look at it this week.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath.

The Chief Justice

cc: The Conference  
Mr. Rodak

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 1, 1975

Re: No. 73-6033 - Roe v. Norton

Dear Bill:

I agree.

Sincerely,

  
Harry

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 1, 1975

No. 73-6033 Roe v. Norton

Dear Bill:

Please join me in your Per Curiam.

Sincerely,

*Lewis*

Mr. Justice Brennan

lfp/ss

cc: The Conference

REPRODUCED FROM THE COLLECTION OF THE MANUSCRIPT DIVISION

SSSRJNOC OF ADVDPRI IN

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 1, 1975

Re: No. 73-6033 - Roe v. Norton

Dear Bill:

Please join me.

Sincerely,

*WR*

Mr. Justice Brennan

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