

# The Burger Court Opinion Writing Database

## *Drope v. Missouri*

420 U.S. 162 (1975)

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



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

From: The Chief Justice

1st DRAFT

Circulated: JAN 29 1975

SUPREME COURT OF THE UNITED STATES

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

No. 73-6038

James Edward Drope, }  
Petitioner, } On Writ of Certiorari to the  
v. } Court of Appeals of Missouri  
State of Missouri. } for the St. Louis District.

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to consider petitioner's claims that he was deprived of due process of law by the failure of the trial court to order a psychiatric examination with respect to his competence to stand trial and by the conduct in his absence of a portion of his trial on an indictment charging a capital offense.

I

In February 1969 an indictment was returned in the Circuit Court of St. Louis, Missouri, charging petitioner and two others with the forcible rape of petitioner's wife. Following severance of petitioner's case from those of the other defendants and a continuance, on May 27 his counsel filed a motion for a continuance until September, in order that petitioner might be examined and receive psychiatric treatment. Treatment had been suggested by a psychiatrist who had examined petitioner at his counsel's request and whose report was attached to the motion.<sup>1</sup> On the same date respondent, through the

<sup>1</sup> The motion recites: "Comes now the Defendant, JAMES E. DROPE, and states to the court that he had a psychiatric examina-

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

CHAMBERS OF  
THE CHIEF JUSTICE

*file*  
✓  
April 23, 1975

Re: Cases held for No. 73-6038 - Drope v. Missouri

MEMORANDUM TO THE CONFERENCE:

Two cases, one on cert from the Court of Appeals of Kentucky and the other on cert from CA 9, were held for Drope. My recommended dispositions are as follows:

No. 73-1884 - Jones v. Kentucky

*when?*  
Petitioner was indicted for "wilful murder" by a Kentucky grand jury. It appears that he suffers from alcoholism and diabetes and that he has emotional problems; his trial was twice continued because he was in the hospital. On the day prior to the next scheduled date for the trial, petitioner's counsel moved for a psychiatric examination and evaluation, to include a finding with respect to petitioner's competence to stand trial. Attached to the motion was an affidavit of petitioner's mother, stating that at the age of 17 (ca. 1958) petitioner "began to manifest highly nervous tensions and emotional disturbances," and that on a number of occasions from that time until 1966 petitioner was treated by a psychiatrist and was

✓  
1  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

February 10, 1975

Dear Chief:

Please join me in 73-6038,  
DROPE v. MISSOURI.

WOD / Sandra

William O. Douglas

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 6, 1975

RE: No. 73-6038 Drope v. Missouri

Dear Chief:

I agree.

Sincerely,

*Bill*

The Chief Justice

cc: The Conference

✓

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

CHAMBERS OF  
JUSTICE POTTER STEWART

January 31, 1975

No. 73-6038, Drope v. Missouri

Dear Chief,

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

Sincerely yours,

P.S.  
/

The Chief Justice

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 10, 1975

Re: No. 73-6038 - Drope v. Missouri

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 14, 1975

Re: No. 73-6038 -- James Edward Drope v. State of  
Missouri

Dear Chief:

Please join me.

Sincerely,

*T.M.*

T. M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 7, 1975

Re: No. 73-6038 - Drope v. Missouri

Dear Chief:

Please join me.

Sincerely,

*Harry*

The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 6, 1975

No. 73-6038 Drope v. Missouri

Dear Chief:

Please join me.

Sincerely,

*Lewis*

The Chief Justice

lfp/ss

cc: The Conference

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V

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

February 10, 1975

Re: No. 73-6038 - Drope v. Missouri

Dear Chief:

Please join me.

Sincerely,

WHR

The Chief Justice

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U.S. SUPREME COURT