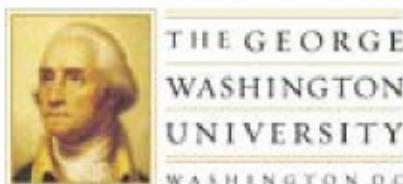


# The Burger Court Opinion Writing Database

*Bowen v. United States*

422 U.S. 916 (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  
JUSTICE POTTER STEWART

May 28, 1975

No. 73-6848 - Bowen v. United States

Dear Lewis,

If your memorandum in this case becomes an opinion of the Court, I should appreciate your adding the following at the foot thereof:

"MR. JUSTICE STEWART dissents."

Sincerely yours,

P.S.  
P.

Mr. Justice Powell

Copies to the Conference

*In this case Justice Stewart -*

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

154-12

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 25, 1975

Re: No. 73-6848 - Bowen v. United States

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 28, 1975

Re: No. 73-6848 -- Bowen v. United States

Dear Lewis:

If your memorandum in this case becomes  
an opinion of the Court, I will dissent.

Sincerely,



Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 9, 1975

Re: No. 73-6848 - Bowen v. United States

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

cc: The Conference

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

From: Powell, J.

Circulated: MAY 24 1975

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

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 73-6848

John Lee Bowen, Petitioner, v. United States. } On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

[May —, 1975]

### Memorandum of MR. JUSTICE POWELL.

Petitioner was convicted of federal drug offenses based on evidence seized in January 1971 when Border Patrol officers stopped his camper pickup at a traffic checkpoint on California Highway 86, about 36 air miles from the Mexican border. The officers first determined that petitioner was a United States citizen, then asked him to open the camper so that they could search for concealed aliens. When petitioner opened the door, one officer noticed a strong odor of marihuana. He entered the camper and discovered approximately 356 pounds of the drug. A subsequent search of the passenger compartment produced a number of benzedrine tablets.

The Court of Appeals for the Ninth Circuit affirmed petitioner's conviction, rejecting his argument that the search was unlawful. *United States v. Bowen*, 462 F. 2d 347 (CA9 1972). A petition for certiorari was pending when we announced our decision in *Almeida-Sanchez v. United States*, 413 U. S. 266 (1973), holding that the Fourth Amendment prohibits the use of roving patrols to search vehicles, with neither a warrant nor probable cause, at points removed from the border and its functional equivalents. We vacated the judgment in petition.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 19, 1975

Cases Held for No. 73-6848 Bowen v. U.S.

MEMORANDUM TO THE CONFERENCE:

- 
- No. 73-1856 Foerster v. United States
  - No. 73-1896 Hendrix v. United States
  - No. 73-6851 Rodriguez-Hernandez v. United States
  - No. 73-6923 Rice v. United States
  - No. 73-6926 Smith v. United States
  - No. 73-7088 Dever v. United States
  - No. 74-599 United States v. Speed and Rainer
  - No. 74-648 Owen v. United States
  - No. 74-703 Phillips and Tolbert v. United States
  - No. 74-5214 Jeanguenat v. United States
  - No. 74-5584 Sanders v. United States
  - No. 74-6327 DeLeon v. United States
- 

With one exception (No. 74-599), in each of the cases listed above the court of appeals upheld the validity of a search conducted prior to Almeida-Sanchez. This result is consistent with the disposition of Bowen, and I will vote to deny all of these petitions.

Some of the petitions raise other issues, but I do not regard any of them as important enough for our consideration. In No. 73-6923, two other persons have filed a motion to join the petition. My records show that we have not acted on this motion.

No. 74-599 United States v. Speed and Rainer

CA5 reversed respondents' convictions for smuggling marijuana found in their trunk at a checkpoint search conducted

W.M. Day Jr.  
6/19/74

✓ 1, 4, 5, 6

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

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Powell, J.

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

No. 73-6848

Recirculated: ~~23~~ 23 1975

John Lee Bowen, Petitioner, | On Writ of Certiorari to  
v. | the United States Court  
United States. | of Appeals for the  
Ninth Circuit.

[May —, 1975]

MR. JUSTICE POWELL delivered the opinion of the Court.

Petitioner was convicted of federal drug offenses based on evidence seized in January 1971 when Border Patrol officers stopped his camper pickup at a traffic checkpoint on California Highway 86, about 36 air miles from the Mexican border. The officers first determined that petitioner was a United States citizen, then asked him to open the camper so that they could search for concealed aliens. When petitioner opened the door, one officer noticed a strong odor of marihuana. He entered the camper and discovered approximately 356 pounds of the drug. A subsequent search of the passenger compartment produced a number of benzedrine tablets.

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 6, 1975

Re: No. 73-6848 - Bowen v. United States

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

Copies to the Conference