

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.
✓

Mr. Justice Powell

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In this case I will dissent —

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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,

Byron

Mr. Justice Powell

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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,

T.M.

Mr. Justice Powell

cc: The Conference

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U.S. SUPREME COURT

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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,

Harry

Mr. Justice Powell

cc: The Conference

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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, } On Writ of Certiorari to
v. } the United States Court
United States. } 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 peti-

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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

Wm. Doyle
ex-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: ~~JAN~~ 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,

WR

Mr. Justice Powell

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