

# The Burger Court Opinion Writing Database

*Richmond v. United States*

422 U.S. 358 (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

June 17, 1975

Re: 74-201 - City of Richmond, Va. v. U. S.

Dear Byron:

Please join me in your circulation of June 6.

Regards,

*WSB*

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM O. DOUGLAS

June 19, 1975

Re: No. 74-201 - City of Richmond v. United States

Dear Bill:

Please join me in your dissenting opinion.

Sincerely,

William O. Douglas

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 5, 1975

RE: No. 74-201 City of Richmond, Va. v. United States

Dear Byron:

I shall prepare a dissent in the above.

Sincerely,

Mr. Justice White  
cc: The Conference

74-201

*C with  
Please send  
me a copy*

City of Richmond, Virginia,      }  
Appellant,                      }  
v.                              }  
United States et al.            }

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

On Appeal from ~~the~~ Justice Rehnquist  
United States District Court for  
the District of Columbia

Circulated: 6/14/75

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MR. JUSTICE BRENNAN, dissenting.

The District Court, applying proper legal standards, found that the City of Richmond had failed to prove that its annexation of portions of Chesterfield County, Virginia, on January 1, 1970, had neither the purpose nor the effect of abridging or diluting the voting rights of Richmond's black citizens. I believe that that finding, far from being clearly erroneous, was amply supported by the record below, and that the District Court properly denied the declaratory judgment sought by Richmond. I therefore dissent.

I

The Voting Rights Act of 1965 <sup>1/</sup> grew out of a long and sorry

STYLISTIC CHANGES

152 3  
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: 6/20/75

## 2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 74-201

City of Richmond, Virginia, } On Appeal from the  
Appellant, } United States District  
v. } Court for the District  
United States et al. } of Columbia.

[June —, 1975]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE DOUGLAS and MR. JUSTICE MARSHALL join, dissenting.

The District Court, applying proper legal standards, found that the city of Richmond had failed to prove that its annexation of portions of Chesterfield County, Virginia, on January 1, 1970, had neither the purpose nor the effect of abridging or diluting the voting rights of Richmond's black citizens. I believe that that finding, far from being clearly erroneous, was amply supported by the record below, and that the District Court properly denied the declaratory judgment sought by Richmond. I therefore dissent.

## I

The Voting Rights Act of 1965<sup>1</sup> grew out of a long and sorry history of resistance to the Fifteenth Amendment's ringing proscription of racial discrimination in voting. That history, which we reviewed in the course of upholding the Act's constitutionality in *South Carolina v. Katzenbach*, 383 U. S. 301, 308-315 (1966), showed a persistent and often ingenious use of tests and devices to disenfranchise black citizens.<sup>2</sup> Congress, in

<sup>1</sup> 79 Stat. 437, 42 U. S. C. § 1973 *et seq.*, as amended, 84 Stat. 314.

<sup>2</sup> See also *Beer v. United States*, 374 F. Supp. 363, 377-378 (DC 1974); H. R. Rep. No. 439, 89th Cong., 1st Sess., 8-13 (1965); S. Rep. No. 162, pt. 3, 89th Cong., 1st Sess., 3-12 (1965).

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 6, 1975

No. 74-201 - Richmond v. United States

Dear Byron,

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

Sincerely yours,

P. S.  
P.

Mr. Justice White

Copies to the Conference

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

From: White, J.

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3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 74-201

City of Richmond, Virginia, } On Appeal from the  
Appellant, } United States District  
v. } Court for the District  
United States et al. } of Columbia.

[June —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

Under § 5 of the Voting Rights Act of 1969, 42 U. S. C. § 1973 (c),<sup>1</sup> a State or subdivision thereof subject to the

<sup>1</sup> Section 5, 42 U. S. C. § 1973c provides:

"Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b (a) based upon determinations made under the first sentence of section 1973b (b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b (a) of this title based upon determinations made under the second sentence of section 1973b (b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may

pp 18-19

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

From: White, J.

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4th DRAFT

**SUPREME COURT OF THE UNITED STATES**

**No. 74-201**

City of Richmond, Virginia, | On Appeal from the  
Appellant, | United States District  
v. | Court for the District  
United States et al. | of Columbia.

[June —, 1975]

MR. JUSTICE WHITE delivered the opinion of the Court.

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"Whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b (a) based upon determinations made under the first sentence of section 1973b (b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1964, or whenever a State or political subdivision with respect to which the prohibitions set forth in section 1973b (a) of this title based upon determinations made under the second sentence of section 1973b (b) of this title are in effect shall enact or seek to administer any voting qualification or prerequisite to voting, or standard, practice, or procedure with respect to voting different from that in force or effect on November 1, 1968, such State or subdivision may institute an action in the United States District Court for the District of Columbia for a declaratory judgment that such qualification, prerequisite, standard, practice, or procedure does not have the purpose and will not have the effect of denying or abridging the right to vote on account of race or color, and unless and until the court enters such judgment no person shall be denied the right to vote for failure to comply with such qualification, prerequisite, standard, practice, or procedure: *Provided*, That such qualification, prerequisite, standard, practice, or procedure may

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 6, 1975

Re: No. 74-201, City of Richmond v. United States

Dear Byron:

My vote was very tentative to reverse. Further study makes it difficult for me to get by the District Court's Findings of Fact. So, I shall wait for WJB's dissent.

Sincerely,

*T.M.*

T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

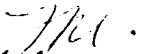
June 18, 1975

Re: No. 74-201 -- City of Richmond, Virginia v. United States

Dear Bill:

Please join me in your dissent.

Sincerely,

  
T. M.

Mr. Justice Brennan

cc: The Conference

2  
Supreme Court of the United States  
Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 9, 1975

Re: No. 74-201 - City of Richmond, Va. v. U. S.

Dear Byron:

Please join me.

Sincerely,

*Harry*

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 6, 1975

Re: No. 74-201 - City of Richmond v. United States

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference