The Burger Court Opinion Writing Database

Estelle v. Williams

425 U.S. 501 (1976)

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

April 1, 1975

No. 74-676 Estelle v. Williams

Dear Chief:

The Conference requested that I appoint counsel to represent respondent in the above case.

The issue in this case is whether it is constitutional error to try a defendant in prison garb. Respondent was represented successfully in the courts below by Ben L. Anderholt of Houston, and respondent has requested that we appoint Mr. Anderholt to represent him in this Court.

I communicated the above information to Chief Judge John Brown who lives in Houston, and requested his advice as to whether Anderholt is qualified for the appointment.

Judge Brown called me today to say that his investigation indicates that Anderholt is a "bright boy", and apparently did well in the courts below. Judge Brown prefers, however, that we appoint Steven Susman, whom John describes as probably the best clerk he ever had. Mr. Susman is now an associate professor at the University of Texas School of Law, on a leave of absence from Leon Jaworski's law firm.

In sum, Judge Brown's investigation indicates that Anderholt is apparently competent to carry the representation. At the same time, Judge Brown made clear his preference for Susman, whom he describes as a lawyer of extraordinary ability. Judge Brown also expressed the view that the Fifth Circuit Court of Appeals considers this case to be an important one.

Unless advised that protocol is to the contrary, my own inclination is to appoint Anderholt in accordance with his client's request.

Sincerely,

The Chief Justice

lfp/ss

Dissent

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

Stall Petitioner doesn't raise retroactivity issue explicitly.

January 23, 1975

Re: No. 74-676 - Estelle v. Williams

Case is correctly decided by CA5 except perhaps as retroactivity issue

Dear Chief:

This was relisted after last week's Conference, at which I made the assertion that respondent had not objected to being tried in prison clothing, and you quickly responded that he had. My review of the record suggests we are both partially right.

Judge Ainsworth's opinion for the Court of Appeals states the question this way:

> "The principal contention in this proceeding is that petitioner's right to due process of law was violated when he was compelled to wear a prison uniform at his jury trial despite his request for his readily available civilian clothes."

Neither the response nor the petition provides any additional information about this point. The testimony at the federal habeas hearing, contained in the petition at pages 9b-11b, may, I think, be summarized as follows:

> (a) The state court judge testified that any prisoner who requested the judge that he

be allowed to be tried in civilian clothing was allowed civilian clothing;

(b) The prosecuting attorney and a defense attorney testified to the same effect as had the trial judge;

(c) The defense attorney in this particular case stated that he could not make a request for civilian clothing for Williams because at the time no defendants wore civilian clothing and he thought such a request would be denied; he further testified that Willliams didn't inquire about civilian clothing from him;

(d) Williams testified that he asked one Deputy Cleveland to change clothes prior to trial but that he did not again raise the matter with his lawyer or the trial judge after the Deputy denied his request.

From all of this it appears to me that if a request to a deputy sheriff having custody of the defendant for civilian clothes is sufficient, a request was made. But if the defendant or at least his attorney is required to bring the matter to the attention of the court trying the case, that was not done here.

Sincerely,

But CA 5's rule is that these hon have been ineffective

The Chief Justice

Copies to the Conference