

# The Burger Court Opinion Writing Database

*Franks v. Bowman Transportation Co.*  
424 U.S. 747 (1976)

Paul J. Wahlbeck, George Washington University  
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Forrest Maltzman, George Washington University



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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1st DRAFT

## SUPREME COURT OF THE UNITED STATES

HAROLD FRANKS AND JOHNNIE LEE v.  
 BOWMAN TRANSPORTATION COM-  
 PANY, INC., ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
 STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

No. 74-728. Decided March —, 1975

MR. JUSTICE WHITE, dissenting.

Petitioner Franks, after his complaint had been processed through the Equal Employment Opportunity Commission, brought this action against respondent under Title VII of the Civil Rights Act of 1964, § 706, 42 U. S. C. § 2000e-5, and 42 U. S. C. § 1981, on behalf of himself and others similarly situated, alleging generally, that respondent had engaged in and continued to engage in racially discriminatory employment practices. Petitioner Lee was permitted to intervene both individually and as representative of a class of Negroes who had applied for positions as over-the-road (OTR) truck drivers with respondent Bowman and who had allegedly been denied employment by Bowman based on respondent's racially discriminatory hiring practices. The District Court, after finding that respondent had in fact practiced unlawful racial discrimination in its employment policies, including its hiring policies, awarded certain relief not relevant here to Lee and the class he was certified to represent, Fed. Rules Civ. Proc. 23, but denied a prayer for "retroactive seniority" to be awarded to each identifiable job applicant who had been discriminated against in denying his application and who subsequently sought employment with respondent and accepted a position. This relief would have provided such persons with seniority as of the date of their original application. Citing *United*

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

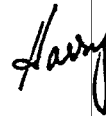
March 19, 1975

Re: No. 74-728 - Franks and Lee v. Bowman  
Transportation Co., Inc.

Dear Byron:

Please join me in your dissent from denial of  
certiorari.

Sincerely,



Mr. Justice White

cc: The Conference