

# The Burger Court Opinion Writing Database

## *Youakim v. Miller*

425 U.S. 231 (1976)

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

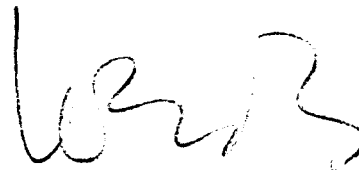
March 26, 1976

Re: 73-6935 - Youakim v. Miller

Dear Byron:

Please join me in your per curiam circulation  
of March 15.

Regards,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

March 5, 1976

Re: No. 73-6935, Youakim v. Miller

Dear Byron,

I hereby cast one vote for your proposed  
per curiam.

Sincerely yours,

P.S.  
/

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 4, 1976

MEMORANDUM TO THE CONFERENCE

Re: No. 73-6935 - Youakim v. Miller

I voted at conference, as I think Bill Brennan and Thurgood did, to remand this case for reconsideration in light of the supervening program instruction issued by HEW. I indicated, however, that I would not dissent from an affirmance. The majority voted to affirm, thus agreeing with the constitutional judgment below.

I was assigned the opinion. By the time I had written a draft to affirm--and that effort is enclosed--I had again concluded that vacating and remanding would be the more desirable action. A per curiam to that effect is also enclosed. If four others go for either of these suggestions, I shall join them.

  
B.R.W.

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

From: Mr. Justice White

Circulated: 3-4-76

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1st DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-6935

Marcel Youakim et al., Appellants, v. Jerome Miller, Individually and as Director of the Depart- ment of Children and Family Services, et al.	}	On Appeal from the United States Dis- trict Court for the Northern District of Illinois.
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[March —, 1976]

MR. JUSTICE WHITE delivered the opinion of the Court.

The question in this case is whether there is a denial of the equal protection of the laws in the Illinois foster child care program.

## I

As part of the federal Aid to Families with Dependent Children (AFDC) program, 42 U. S. C. § 601 *et seq.*, Illinois provides federally subsidized foster care (AFDC-FC) payments for a dependent child who is placed in a "foster family home" . . . licensed by the State," as a result of a judicial determination that the child's home is unsuitable. 42 U. S. C. § 608. Illinois has separated administration of the AFDC and AFDC-FC programs. The Illinois Department of Public Aid is responsible for the AFDC program, Ill. Rev. Stat. c. 23, §§ 4-1 to 4-11 (1973).<sup>1</sup> While the Department of Child and Family

<sup>1</sup> Unless otherwise indicated, citations are to Ill. Rev. Stat. c. 23 (1973).

✓  
 BAW  
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 1/11/76

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

From: Mr. Justice White

Circulated: 3-4-76

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

1st DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-6935

Marcel Youakim et al.,  
 Appellants,  
 v.  
 Jerome Miller, Individually and  
 as Director of the Department of Children and  
 Family Services,  
 et al.

On Appeal from the  
 United States District Court for the  
 Northern District of  
 Illinois.

[March —, 1976]

PER CURIAM.

The State of Illinois provides federally subsidized foster care payments of \$105 per month for a dependent child placed with unrelated foster parents. No foster care payments under this program are made to foster parents who are related to the foster child. Related foster parents, however, are eligible to receive payments under the regular AFDC program for the support of dependent children in the amount of \$63 per month. These payments are made without regard to the financial circumstances of the family caring for the child. In addition, as an exception to the State's regular policy, related foster parents, upon an adequate showing of financial need, may receive supplemental payments for child care which bring the payments in connection with the related foster child to approximately \$105 per month.

Appellants are Linda Youakim and her husband, Marcel, and Linda's four minor brothers and sisters, Timothy, Mary Lou, Larry, and Sherry Robertson.

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 1, 5-7

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

From: Mr. Justice White

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

Recirculated: 3-15-76

2nd DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-6935

<p>Marcel Youakim et al., Appellants, v. Jerome Miller, Individually and as Director of the Depart- ment of Children and Family Services, et al.</p>	}	<p>On Appeal from the United States Dis- trict Court for the Northern District of Illinois.</p>
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[March —, 1976]

PER CURIAM.

As part of the Federal Aid to Families with Dependent Children (AFDC) program, 42 U. S. C. § 601 *et seq.*, the State of Illinois provides federally subsidized foster care (AFDC-FC) payments of \$105 per month for a dependent child placed with unrelated foster parents. Under Illinois' administration of the program no foster care payments are made to foster parents who are related to the foster child. Related foster parents are eligible, however, to receive payments under the State's regular AFDC program for the support of dependent children in the amount of \$63 per month. These payments are made without regard to the financial circumstances of the family caring for the child. In addition, as an exception to the State's regular policy, related foster parents, upon an adequate showing of financial need, may receive supplemental payments for child care which bring the payments in connection with the related foster child to approximately \$105 per month.

STYLISTIC CHANGES THROUGHOUT.

~~SEE PAGES:~~

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

From: Mr. Justice White

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

Recirculated: 3-26-76

3rd DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 73-6935

Marcel Youakim et al.,  
 Appellants,

v.

Jerome Miller, Individually and  
 as Director of the Depart-  
 ment of Children and  
 Family Services,  
 et al.

On Appeal from the  
 United States Dis-  
 trict Court for the  
 Northern District of  
 Illinois.

[March 30, 1976]

## PER CURIAM.

As part of the federal Aid to Families with Dependent Children (AFDC) program, 42 U. S. C. § 601 *et seq.*, the State of Illinois provides federally subsidized foster care (AFDC-FC) payments of \$105 per month for a dependent child placed with unrelated foster parents. Under Illinois' administration of the program no foster care payments are made to foster parents who are related to the foster child. Related foster parents are eligible, however, to receive payments under the State's regular AFDC program for the support of dependent children in the amount of \$63 per month. These payments are made without regard to the financial circumstances of the family caring for the child. In addition, as an exception to the State's regular policy, related foster parents, upon an adequate showing of financial need, may receive supplemental payments for child care which bring the payments in connection with the related foster child to approximately \$105 per month.



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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

March 8, 1976

Re: No. 73-6935 -- Youakim v. Miller

Dear Byron:

I agree with your Per Curiam in this case.

Sincerely,



T. M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

March 9, 1976

Re: No. 73-6935 - Yuakim v. Miller

Dear Byron:

I cast a vote for the signed opinion. If, however, a majority opt in favor of the per curiam, you may join me on that one. My preference, however, is for the one that is signed.

Sincerely,

*Larry*

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

March 5, 1976

No. 73-6935 Youakim v. Miller

Dear Byron:

Although I voted to affirm at the Conference, and could join your opinion to affirm on the constitutional issue, I am now persuaded that the remand proposed in your Per Curiam is the preferable disposition.

Accordingly, please join me in your Per Curiam.

As you have written two excellent opinions, I think you should at least receive credit for one. Accordingly, I hope your Per Curiam will become a Court opinion.

Sincerely,

*Lewis*

Mr. Justice White

lfp/ss -----

cc: - The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

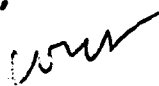
March 5, 1976

Re: No. 73-6935, Youakim v. Miller

Dear Byron,

I hereby cast one vote for your signed opinion.

Sincerely,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

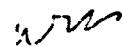
March 26, 1976

Re: No. 73-6935, Youakim v. Miller

Dear Byron,

Will you please join me in your per curiam.

Sincerely,



Mr. Justice White

Copies to the Conference