

# The Burger Court Opinion Writing Database

*East Carroll Parish School Board v.  
Marshall*

424 U.S. 636 (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. 20530

CHAMBERS OF  
THE CHIEF JUSTICE

March 4, 1976

Re: No. 73-861 - East Carroll Parish School Board v. Marshall

Dear Byron:

Your Per Curiam opinion dated February 24 is generally acceptable to me but the treatment of § 5 in a footnote (Note 6) leaves me uneasy. I question whether it is necessary to reach the issue, and to decide a question of that importance in a "dicta-footnote" seems something less than desirable.

Are you open to reexamining it? If not, I think I must concur but be shown as

"The Chief Justice considers it unnecessary to reach the question discussed in Note 6, p. 3. It was, as the Court observes in Note 6, 'not raised by the petitioner, nor did respondent file a cross-petition.' The scope of § 5 of the Voting Rights Act is an important matter and I would not undertake to express any view on what the Court discusses by way of dicta in Note 6."

Regards,

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

February 24, 1976

RE: No. 73-861 East Carroll Parish School Board, etc.  
v. Stewart Marshall

Dear Byron:

I agree with the Per Curiam you have prepared in  
the above.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

February 24, 1976

73-861 - East Carroll Parish School v. Marshall

Dear Byron,

I agree with the proposed Per Curiam  
you have circulated in this case.

Sincerely yours,

P.S.  
P.J.

Mr. Justice White

Copies to the Conference

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: 2-27-

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

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 73-861

East Carroll Parish School Board and East Carroll Parish Police Jury, Petitioners, *v.* Stewart Marshall, On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[March —, 1976]

PER CURIAM.

The sole issue raised by this case is how compliance with the one-man, one-vote principle should be achieved in a parish (county) that is admittedly malapportioned.

Plaintiff Zimmer, a white resident of East Carroll Parish, brought suit in 1968 alleging that population disparities among the wards of the parish had unconstitutionally denied him the right to cast an effective vote in elections for members of the police jury<sup>1</sup> and the school board. See *Avery v. Midland County*, 390 U. S. 474 (1968). After a hearing the District Court agreed that the wards were unevenly apportioned and adopted a re-apportionment plan suggested by the East Carroll police jury calling for the at-large election of members of both the police jury and the school board.<sup>2</sup> The 1969 and 1970 elections were held under this plan.

<sup>1</sup> In Louisiana, the police jury is the governing body of the parish. Its authority includes construction and repair of roads, levying taxes to defray parish expenses, providing for the public health, and performing other duties related to public health and welfare. La. Rev. Stat. § 33:1236 (1959).

<sup>2</sup> Prior to 1968, Louisiana law prohibited at-large elections of

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: 2-24-

*Stylized changes only*

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 73-861

East Carroll Parish School  
Board and East Carroll  
Parish Police Jury, } On Writ of Certiorari to the  
Petitioners, } United States Court of  
v. } Appeals for the Fifth Cir-  
Stewart Marshall. } circuit.

[March —, 1976]

PER CURIAM.

The sole issue raised by this case is how compliance with the one-man, one-vote principle should be achieved in a parish (county) that is admittedly malapportioned.

Plaintiff Zimmer, a white resident of East Carroll Parish, brought suit in 1968 alleging that population disparities among the wards of the parish had unconstitutionally denied him the right to cast an effective vote in elections for members of the police jury<sup>1</sup> and the school board. See *Avery v. Midland County*, 390 U. S. 474 (1968). After a hearing the District Court agreed that the wards were unevenly apportioned and adopted a re-apportionment plan suggested by the East Carroll police jury calling for the at-large election of members of both the police jury and the school board.<sup>2</sup> The 1969 and 1970 elections were held under this plan.

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<sup>2</sup> Prior to 1968, Louisiana law prohibited at-large elections of

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

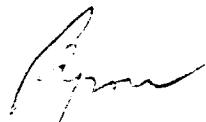
March 4, 1976

Re: No. 73-861 - East Carroll Parish School Bd  
v. Marshall

Dear Chief:

There is much to what you say, but I am inclined to retain n. 6 and am recirculating with your statement.

Sincerely,



The Chief Justice

Copies to Conference

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: 3-5-1

**3rd DRAFT**

**SUPREME COURT OF THE UNITED STATES**

**No. 73-861**

East Carroll Parish School  
Board and East Carroll  
Parish Police Jury, } On Writ of Certiorari to the  
Petitioners. United States Court of  
Appeals for the Fifth Cir-  
cuit.  
v.  
Stewart Marshall.

[March —, 1976]

**PER CURIAM.**

The sole issue raised by this case is how compliance with the one-man, one-vote principle should be achieved in a parish (county) that is admittedly malapportioned.

Plaintiff Zimmer, a white resident of East Carroll Parish, brought suit in 1968 alleging that population disparities among the wards of the parish had unconstitutionally denied him the right to cast an effective vote in elections for members of the police jury<sup>1</sup> and the school board. See *Avery v. Midland County*, 390 U. S. 474 (1968). After a hearing the District Court agreed that the wards were unevenly apportioned and adopted a re-apportionment plan suggested by the East Carroll police jury calling for the at-large election of members of both the police jury and the school board.<sup>2</sup> The 1969 and 1970 elections were held under this plan.

<sup>1</sup> In Louisiana, the police jury is the governing body of the parish. Its authority includes construction and repair of roads, levying taxes to defray parish expenses, providing for the public health, and performing other duties related to public health and welfare. La. Rev. Stat. § 33:1236 (1950).

<sup>2</sup> Prior to 1968, Louisiana law prohibited at-large elections of

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 26, 1976

Re: No. 73-861 -- East Carroll Parish School Board and  
East Carroll Parish Police Jury v. Stewart Marshall

Dear Byron:

I agree with your Per Curiam in this case.

Sincerely,

*T.M.*  
T.M.

Mr. Justice White

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 24, 1976

Re: No. 73-861 - East Carroll Parish School  
Board v. Marshall

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Dear Byron:

I agree with your per curiam.

Sincerely,

*Harry*

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 26, 1976

No. 73-861. East Carroll Parish v. Marshall

Dear Byron:

Please join me in your Per Curiam.

Sincerely,

*Lewis*

Mr. Justice White

1fp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

February 25, 1976

Re: No. 73-861 - East Carroll Parish School Board  
v. Marshall

Dear Byron:

Please join me.

Sincerely,

W

Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

February 24, 1976

Re: No. 73-861 - East Carroll Parish School  
Board, et al. v. Marshall

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference