

The Burger Court Opinion Writing Database

*Serbian Eastern Orthodox Diocese for
United States and Canada v. Milivojevich*
426 U.S. 696 (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

June 17, 1976

Re: 75-292 - Serbian Eastern Orthodox Diocese v. Milivojevic

Dear Bill:

Please show me as concurring in the judgment in
your circulation of June 14 in the above.

Regards,

WRB

Mr. Justice Brennan

Copies to the Conference

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

In The

SUPREME COURT OF THE UNITED STATES

October Term, 1975.

Circulated: 10/3/76

Recirculated: _____

No. 75-292

THE SERBIAN EASTERN ORTHODOX DIOCESE FOR
 THE UNITED STATES OF AMERICA AND CANADA,
 A Religious Body, et al.,

Petitioners,

vs.

DIONISIJE MILIVOJEVICH, et al.,

Respondents.

ON A WRIT OF CERTIORARI TO THE SUPREME COURT OF ILLINOIS.

To: The Chief Justice ✓
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Brennan
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan

From: Mr. Justice Brennan

Circulated 6/19/76

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-292

The Serbian Eastern Orthodox
 Diocese for the United States
 of America and Canada
 et al., Petitioners,
 v.
 Dionisije Milivojevich et al.

On Writ of Certiorari to
 the Supreme Court of
 Illinois.

[June —, 1976]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

In 1963, the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church (Mother Church) suspended and ultimately removed respondent Dionisije Milivojevich (Dionisije) as Bishop of the American-Canadian Diocese of that Church, and appointed petitioner Bishop Firmilian Ocokoljich (Firmilian) as Administrator of the Diocese, which the Mother Church then reorganized into three Dioceses. In 1964 the Holy Assembly and Holy Synod defrocked Dionisije as a Bishop and cleric of the Mother Church. In this civil action brought by Dionisije and the other respondents in Illinois Circuit Court, the Supreme Court of Illinois held that the proceedings of the Mother Church respecting Dionisije were procedurally and substantively defective under the internal regulations of the Mother Church and were therefore arbitrary and invalid. The State Supreme Court also invalidated the Diocesan reorganization into three Dioceses. 60 Ill. 2d 477, 328 N. E. 2d 268

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 16, 1976

MEMORANDUM TO THE CONFERENCE

RE: No. 75-292 Serbian Orthodox Diocese v. Milivojevic

The only change I propose in response to Bill Rehnquist's dissent is the insertion of the following after the word "Diocese" in the first line of page 13.

"This is because the Diocesan Bishop controls respondent Monastery of St. Sava and is the principal officer of respondent property holding corporations. Resolution of the religious dispute over Dionisije's defrockment therefore determines control of the property. Thus, this case essentially involves not a church property dispute but a religious dispute the resolution of which under our cases is for ecclesiastical and not civil tribunals. Even when rival church factions seek resolution of, etc."

W.J.B.Jr.

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

From Mr. Justice Brennan

Circulated: _____

Re-circulated: 6/17/76

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-292

The Serbian Eastern Orthodox Diocese for the United States of America and Canada et al., Petitioners, v. Dionisije Milivojevich et al.	}	On Writ of Certiorari to the Supreme Court of Illinois.
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[June —, 1976]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

In 1963, the Holy Assembly of Bishops and the Holy Synod of the Serbian Orthodox Church (Mother Church) suspended and ultimately removed respondent Dionisije Milivojevich (Dionisije) as Bishop of the American-Canadian Diocese of that Church, and appointed petitioner Bishop Firmilian Ocokoljich (Firmilian) as Administrator of the Diocese, which the Mother Church then reorganized into three Dioceses. In 1964 the Holy Assembly and Holy Synod defrocked Dionisije as a Bishop and cleric of the Mother Church. In this civil action brought by Dionisije and the other respondents in Illinois Circuit Court, the Supreme Court of Illinois held that the proceedings of the Mother Church respecting Dionisije were procedurally and substantively defective under the internal regulations of the Mother Church and were therefore arbitrary and invalid. The State Supreme Court also invalidated the Diocesan reorganization into three Dioceses. 60 Ill. 2d 477, 328 N. E. 2d 268

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 8, 1976

Re: No. 75-292, Serbian Diocese v. Milivojevic

Dear Bill,

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

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

No. 75-292 — Serbian Eastern Orthodox Diocese
v. Milivojevich

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: 6-16-76

Recirculated: _____

MR. JUSTICE WHITE, concurring.

Major predicates for the Court's opinion are that the Serbian Orthodox Church is a hierarchical church and the American and Canadian diocese, involved here, is part of that church. These basic issues are for the courts' ultimate decision, and the fact that church authorities may render their opinions on them does not foreclose the courts from coming to their independent judgment. I do not understand the Court's opinion to suggest otherwise and join the views expressed therein.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 3, 1976

Re: No. 75-292 -- The Serbian Eastern Orthodox Diocese
for the United States of America and Canada v.
Dionisije Milivojevic

Dear Bill:

Please join me.

Sincerely,

T.M.
T.M.

Mr. Justice Brennan

cc: The Conference



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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 14, 1976

No. 75-292 - Serbian Eastern Orthodox
Diocese v. Milivojevic

Dear Bill:

These are very minor points, but I raise them because they confused me somewhat as I read your opinion:

1. On page 4, 6th line, reference is made to the Russian Church. This, however, follows comments about the newly emerging Serbian Church. Perhaps the reference is correct, but I wonder. I confess I have not taken the time to check the briefs.

2. On page 8, 1st full paragraph, 3rd line from the end, is the name "Achimandrites." I believe this is the first time this particular name has been used in connection with Bishop Firmilian. See, for example, the 5th line on page 1. Since these Serbian names confuse me enough as it is, I wonder whether this one, for the sake of clarity, may be omitted.

Sincerely,

H. A. B.

Mr. Justice Brennan

WB

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 14, 1976

Re: No. 75-292 - Serbian Eastern Orthodox
Diocese v. Milivojevich

Dear Bill:

Please join me.

Sincerely,

H. A. B.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 7, 1976

No. 75-292 The Serbian Eastern Orthodox
Diocese v. Milvojevich

Dear Bill:

Please join me.

Sincerely,

Lewis

Mr. Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 4, 1976

Re: No. 75-292 - Serbian Eastern Orthodox Diocese
v. Milivojevic

Dear Bill:

This will confirm my statement in Conference that
I plan to circulate a dissent in this case.

Sincerely,

WM

Mr. Justice Brennan

Copies to the Conference

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

From: Mr. Justice Rehnquist

Circulated: JUN 14 1976

Recirculated: _____

No. 75-292

Serbian Eastern Orthodox Diocese

v.

Milivojevich

MR. JUSTICE REHNQUIST, dissenting.

The Court's opinion, while long on the ecclesiastical history of the Serbian Orthodox Church, is somewhat short on the procedural history of this case. A casual reader of some of the passages in the Court's opinion could easily gain the impression that the State of Illinois had commenced a proceeding designed to brand Bishop Firmilian as a heretic, with appropriate pains and penalties. But the state trial judge in the Circuit Court of Lake County was not the Bishop of Beauvais, trying Joan of Arc for heresy; the jurisdiction of his court was invoked by petitioners themselves, who sought an injunction establishing their control over property of the American-Canadian Diocese of the church located in Lake County.

✓

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

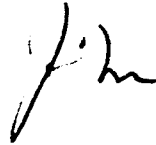
June 6, 1976

Re: 75-292 - The Serbian Eastern Orthodox Diocese, etc.
v. Milivojevich, et al.

Dear Bill:

I shall await Bill Rehnquist's dissent.

Sincerely,



Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 15, 1976

Re: 75-292 - Serbian Eastern Orthodox Diocese
v. Milivojevic

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Rehnquist

Copies to the Conference