

# The Burger Court Opinion Writing Database

*Proffitt v. Florida*

428 U.S. 242 (1976)

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



TO: The Chief Justice

Mr. Justice  WarrenMr. Justice  BlackMr. Justice  WhiteMr. Justice  ClarkMr. Justice  HarlanMr. Justice  StoneMr. Justice  BrandeisMr. Justice  HolmesMr. Justice  TaftMr. Justice  SutherlandMr. Justice  CardozoMr. Justice  Stone

From: Mr. Justice Stewart

JUN 8 1975

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

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NO. 75-5706, PROFFITT v. FLORIDA

MR. JUSTICE STEWART, MR. JUSTICE POWELL,

and MR. JUSTICE STEVENS:

The issue presented by this case is whether the imposition of the sentence of death for the crime of murder under the law of Florida violates the Eighth and Fourteenth Amendments.

## I

The petitioner, Charles William Proffitt, was tried, found guilty and sentenced to death for the first degree murder by stabbing of Joel Medgebow. The circumstances surrounding the murder itself were testified to by the decedent's wife, who was present at the time of the murder. <sup>1/</sup> Mrs. Medgebow wakened around 5:00 a.m. to find her husband sitting up in bed, moaning. Just then a third person jumped up, hit her several times, knocked her to the floor, and then ran out of the house. Mrs. Medgebow was not able to identify the attacker, although she <sup>2/</sup> was able to give a description of his clothing.

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-5706

From: [redacted] Stewart

City: [redacted]

July 10, 1976

Charles William Proffitt,  
Petitioner,      } On Writ of Certiorari to the  
v.                      } Supreme Court of Florida.  
State of Florida.

[July 2, 1976]

Opinion of MR. JUSTICE STEWART, MR. JUSTICE POWELL,  
and MR. JUSTICE STEVENS announcing the judgment of  
the Court, delivered by MR. JUSTICE POWELL.

The issue presented by this case is whether the imposition  
of the sentence of death for the crime of murder  
under the law of Florida violates the Eighth and Four-  
teenth Amendments.

I

The petitioner, Charles William Proffitt, was tried,  
found guilty, and sentenced to death for the first-degree  
murder of Joel Medgebow. The circumstances surrounding  
the murder were testified to by the decedent's wife,  
who was present at the time it was committed. On  
July 10, 1973, Mrs. Medgebow awakened around 5 a. m.  
in the bedroom of her apartment to find her husband  
sitting up in bed, moaning. He was holding what she  
took to be a ruler.<sup>1</sup> Just then a third person jumped  
up, hit her several times with his fist, knocked her to  
the floor, and ran out of the house. It soon appeared  
that Medgebow had been fatally stabbed with a butcher  
knife. Mrs. Medgebow was not able to identify the at-

<sup>1</sup> It appears that the "ruler" was actually the murder weapon  
which Medgebow had pulled from his own chest.

No. 75-5706 — Proffitt v. Florida

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: 6-17-76

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

MR. JUSTICE WHITE, concurring.

There is no need to repeat the Court's statement of the facts of this case and of the statutory procedure under which the death penalty was imposed. I also agree with the majority, see part 2(a) and (b), ante, at \_\_\_, that although the statutory aggravating and mitigating circumstances are not susceptible to mechanical application they are by no means so vague and overbroad as to leave the discretion of the sentencing authority unfettered. Under Florida law, the sentencing judge is required to impose the death penalty on all first-degree murderers as to whom the statutory aggravating factors outweigh the mitigating factors. There is good reason

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

1 2

1st *Created* DRAFT

From: Mr. Justice White

regulated:

No. 75-5706

Recirculated: 6-30-76

Charles William Proffitt, Petitioner, v. State of Florida. } On Writ of Certiorari to the Supreme Court of Florida.

[June —, 1976]

MR. JUSTICE WHITE, with whom THE CHIEF JUSTICE and MR. JUSTICE REHNQUIST join, concurring in the judgment.

There is no need to repeat the statement of the facts of this case and of the statutory procedure under which the death penalty was imposed, both of which are described in detail in the opinion of MR. JUSTICE STEWART, MR. JUSTICE POWELL, and MR. JUSTICE STEVENS (hereinafter the plurality). I agree with the plurality, see Part 2 (a) and (b), *ante*, at —, that although the statutory aggravating and mitigating circumstances are not susceptible to mechanical application they are by no means so vague and overbroad as to leave the discretion of the sentencing authority unfettered. Under Florida law, the sentencing judge is *required* to impose the death penalty on all first-degree murderers as to whom the statutory aggravating factors outweigh the mitigating factors. There is good reason to anticipate, then, that as to certain categories of murderers, the penalty will not be imposed freakishly or rarely but will be imposed with regularity; and consequently it cannot be said that the death penalty in Florida as to those categories has ceased "to be a credible deterrent or measurably to contribute to any other end of punishment in the criminal justice system." *Furman v. Georgia*, 408 U. S., at 311

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

From: Mr. Justice Blackmun

Circulated: 6/29/76

No. 75-5706 - Proffitt v. Florida

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

MR. JUSTICE BLACKMUN, concurring.

I concur in the result. See Furman v. Georgia, 408 U.S. 238, 405-414 (1972) (Blackmun, J., dissenting), and id., at 375, 414 and 465.

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

From: Mr. Justice Blackmun

Circulated:

Recirculated: 6/30/76

## 1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 75-5706

Charles William Proffitt, Petitioner,  
v. On Writ of Certiorari to the  
State of Florida. Supreme Court of Florida.

[June —, 1976]

MR. JUSTICE BLACKMUN, concurring.

I concur in the result. See *Furman v. Georgia*, 408 U. S. 238, 405-414 (1972) (BLACKMUN, J., dissenting), and *id.*, at 375, 414, and 465.

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 29, 1976

Re: No. 75-5706 - Proffitt v. Florida

Dear Byron:

Please join me in your concurring opinion.

Sincerely,

WRW

Mr. Justice White

Copies to the Conference