

# The Burger Court Opinion Writing Database

*Bellotti v. Baird*

428 U.S. 132 (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 16, 1976

Re: (75-73 - Bellotti v. Baird  
(75-109 - Hunerwadel v. Baird

Dear Harry:

I join your opinion dated June 15 remanding for  
abstention.

Regards,

WB<sup>B</sup>

Mr. Justice Blackmun

Copies to the Conference

*file*

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 9, 1976

RE: No. 73-75 Bellotti v. Baird  
No. 75-109 Hunerwadel v. Baird

Dear Harry:

I agree.

Sincerely,

*Baird*

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 9, 1976

Nos. 75-73 and 75-109  
Bellotti v. Baird

Dear Harry,

It occurs to me that your characterization of Danforth at the top of page 17 of this opinion may turn out to be inaccurate. With that caveat, I am glad to join your opinion for the Court in these cases.

Sincerely yours,

P. S.  
1

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 14, 1976

Re: Nos. 75-73 and 75-109 - Bellotti v. Baird

Dear Harry:

Please join me in your circulation of  
June 10 in this case.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 10, 1976

Re: No. 75-73 -- Bellotti v. Baird  
No. 75-109 -- Hunerwadel v. Baird

Dear Harry:

Please join me.

Sincerely,



T. M.

Mr. Justice Blackmun

cc: The Conference

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: 6/7/76

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

No. 75-73 - Bellotti v. Baird  
No. 75-109 - Hunerwadel v. Baird

MR. JUSTICE BLACKMUN delivered the opinion of the  
Court.

In this case, a three-judge District Court for the District of Massachusetts enjoined the operation of certain provisions of a 1974 Massachusetts statute that govern the type of consent required before an abortion may be performed on an unmarried woman under the age of 18. In so acting, the court denied by implication a motion by appellants that the court abstain from deciding the issue pending authoritative construction of the statute by the Supreme Judicial Court of Massachusetts. We hold that the court should have abstained, and we vacate the judgment and remand the case for certification of relevant issues of state law to the Supreme Judicial Court, and for abstention pending the decision of that tribunal.

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: 6/10/76

**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

Nos. 75-73 AND 75-109

Francis X. Bellotti, Attorney General of Massachusetts, et al.,  
Appellants,  
75-73      *v.*  
              William Baird et al.  
Jane Hunerwadel, etc.,  
Appellant,  
75-109      *v.*  
              William Baird et al.

On Appeals from the United States District Court for the District of Massachusetts.

[June —, 1976]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

In this case, a three-judge District Court for the District of Massachusetts enjoined the operation of certain provisions of a 1974 Massachusetts statute that govern the type of consent required before an abortion may be performed on an unmarried woman under the age of 18. In so acting, the court denied by implication a motion by appellants that the court abstain from deciding the issue pending authoritative construction of the statute by the Supreme Judicial Court of Massachusetts. We hold that the court should have abstained, and we vacate the judgment and remand the case for certification of relevant issues of state law to the Supreme Judicial Court, and for abstention pending the decision of that tribunal.

✓ —  
STYLISTIC CHANGES

and p. 16

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: 6/15/76

## 2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

Nos. 75-73 AND 75-109

Francis X. Bellotti, Attorney General of Massachusetts, et al.,  
 Appellants,  
 75-73      *v.*  
 William Baird et al.  
 Jane Hunerwadel, etc.,  
 Appellant,  
 75-109      *v.*  
 William Baird et al.

On Appeals from the United States District Court for the District of Massachusetts.

[June —, 1976]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

In this case, a three-judge District Court for the District of Massachusetts enjoined the operation of certain provisions of a 1974 Massachusetts statute that govern the type of consent required before an abortion may be performed on an unmarried woman under the age of 18. In so acting, the court denied by implication a motion by appellants that the court abstain from deciding the issue pending authoritative construction of the statute by the Supreme Judicial Court of Massachusetts. We hold that the court should have abstained, and we vacate the judgment and remand the case for certification of relevant issues of state law to the Supreme Judicial Court, and for abstention pending the decision of that tribunal.

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 21, 1976

MEMORANDUM TO THE CONFERENCE

Re: No. 75-73 - Bellotti v. Baird  
No. 75-109 - Hunerwadel v. Baird

Everyone has now voted in this case. Potter, however, in his note of June 9, suggested that my "characterization of Danforth at the top of page 17 of this opinion may turn out to be inaccurate." I suppose a similar comment from him might have been made with respect to the references to Planned Parenthood on pages 15 and 19.

As I now canvas the votes in Planned Parenthood, and as I understand Potter's separate opinion which Lewis now has joined, there is a court with respect to the upholding of § 3(2) of the Missouri statute (the woman's consent) and a weakly structured court for the result with respect to § 3(4) (parental consent). This being so, it seems to me that the references to Planned Parenthood on pages 15, 17 and 19 of the Bellotti opinion are not incorrect. I therefore propose no changes in these references. If I am incorrect as to this, perhaps Potter or Lewis will so advise me.

*H.A.B.*

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 9, 1976

No. 75-73 Bellotti v. Baird  
No. 75-109 Hunerwadel v. Baird

Dear Harry:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 11, 1976

Re: Nos. 75-73 and 75-100 - Bellotti and Hunerwadel v.  
Baird

Dear Harry:

Please join me.

Sincerely,

*Wm*

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

June 8, 1976

Re: 75-73 - Bellotti v. Baird  
75-109 - Hunerwadel v. Baird

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference