

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,

LB

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,

Bail

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.
/

Mr. Justice Blackmun

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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 auth-
 oritative 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,



Mr. Justice Blackmun

Copies to the Conference

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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