

# The Burger Court Opinion Writing Database

## *Gregg v. Georgia*

429 U.S. 1301 (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  
JUSTICE WM. J. BRENNAN, JR.

October 20, 1976

RE: CAPITAL CASES

Dear Lewis:

The change agreed upon with Mr. Putzel by  
Potter, John and yourself seems wholly appro-  
priate to me.

Sincerely,

Mr. Justice Powell

cc: The Conference

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

74-6115

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

October 19, 1976

See also

Capital Cases - 1975 Term

MEMORANDUM TO THE CONFERENCE:

Potter, John and I think a change is desirable in the way in which our opinions in these cases were announced and recorded in the slip opinions. No doubt each of you noted the resulting confusion in the media, and among lawyers and judges as to "who had written what".

At the suggestion of my co-authors I have discussed this with Mr. Putzel and also the Chief Justice. Both agree - as the Chief put it - that "the recitals in the opinions were open to question". The slip opinion in Gregg, for example, states:

"STEWART, POWELL and STEVENS, JJ., announced the judgment of the Court and filed an opinion delivered by STEWART, J."

I would interpret this ambiguous language as probably meaning that the three of us spoke for the Court in announcing the judgment, but that the opinion was the product of a single Justice only.

In discussions with Mr. Putzel, he agreed that a change was desirable. One of his suggestions was as follows:

"Judgment of the Court, and opinion by MR. JUSTICE STEWART, MR. JUSTICE POWELL and MR. JUSTICE STEVENS, announced by MR. JUSTICE STEWART."

Mr. Putzel's suggestion is acceptable to Potter, John and me. I suppose the remainder of the recitals as to the opinions would remain the same unless one of the authors desires a change.

We would welcome suggestions or comments from any of our Brothers. Absent these, I will advise Mr. Putzel to make the change in the official reports.

L.F.P. Jr.  
L.F.P., Jr.

74-6-11

MF

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

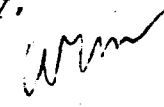
October 21, 1976

Re: Capital Cases 1975 Term

Dear Lewis:

Although I think Henry Putzel could far more profitably have devoted his time to changing other parts of your opinions in these cases than the part which you discuss in your letter of October 19th, I have no objection to the change described in that letter.

Sincerely,



Mr. Justice Powell

Copies to the Conference