

The Burger Court Opinion Writing Database

Mathews v. De Castro
429 U.S. 181 (1976)

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



✓
J.W.

Supreme Court of the United States
Washington, D. C. 20542

CHAMBERS OF
THE CHIEF JUSTICE

December 10, 1976

MEMORANDUM TO THE CONFERENCE:

As agreed at Conference, the following opinion will
be announced next week:

Monday, December 13, 1976

75-1197 - Mathews, Sec'y. HEW v. de Castro - PS

Regards

WCB

cc: Mr. Cornio

P. S. We can consider setting another opinion day
next week.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 7, 1976

RE: No. 75-1197 Mathews v. Castro

Dear Potter:

I agree.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

From: Mr. Justice Stewart
Circulated: DEC 3 1976

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1197

[December —, 1976]

MR. JUSTICE STEWART delivered the opinion of the Court.

Under the Social Security Act a married woman whose husband retires or becomes disabled is granted benefits if she has a minor or dependent child in her care. A divorced woman whose former husband retires or becomes disabled does not receive such benefits. The issue in the present case is whether this difference in the statutory treatment of married and divorced women is permissible under the Fifth Amendment to the United States Constitution.¹

I

Section 202 (b)(1) of the Social Security Act, 42 U. S. C. § 402 (b)(1) (1970 ed. and Supp. V), provides for the payment of "wife's insurance benefits."² To qualify under this sec-

¹ It is well settled that the Fifth Amendment's Due Process Clause encompasses equal protection principles. See, e. g., *Weinberger v. Salfi*, 422 U. S. 749, 768-770.

² Title 42 U. S. C. § 402 (b)(1) (1970 ed. and Supp. V) provides in full: “(b) Wife's insurance benefits.

(1) The wife (as defined in section 416 (b) of this title) and every divorced wife (as defined in section 416 (d) of this title) of an individual entitled to old-age or disability insurance benefits, if such wife or such divorced wife—

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

From: Mr. Justice Stewart

Circulated: _____

Recirculated: DEC 8 1976

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1197

F. David Mathews, Secretary of
Health, Education, and
Welfare, Appellant,
v.
Helen de Castro. } On Appeal from the United
States District Court for
the Northern District of
Illinois.

[December —, 1976]

MR. JUSTICE STEWART delivered the opinion of the Court.

Under the Social Security Act a married woman whose husband retires or becomes disabled is granted benefits if she has a minor or dependent child in her care. A divorced woman whose former husband retires or becomes disabled does not receive such benefits. The issue in the present case is whether this difference in the statutory treatment of married and divorced women is permissible under the Fifth Amendment to the United States Constitution.¹

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

P. 8

From: Mr. Justice Stewart

Circulated: _____

3rd DRAFT

Recirculated: DEC 10 1976

SUPREME COURT OF THE UNITED STATES

No. 75-1197

F. David Mathews, Secretary of
Health, Education, and
Welfare, Appellant,
v.
Helen de Castro.

On Appeal from the United
States District Court for
the Northern District of
Illinois.

[December --, 1976]

MR. JUSTICE STEWART delivered the opinion of the Court.
Under the Social Security Act a married woman whose
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does not receive such benefits. The issue in the present case
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entitled to old-age or disability insurance benefits, if such wife or such
divorced wife—

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 7, 1976

Re: No. 75-1197 - Mathews v. de Castro

Dear Potter:

Join me, please.

Sincerely,



Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 7, 1976

Re: No. 75-1197, Mathews v. de Castro

Dear Potter:

Please mark me as concurring in the judgment
in this one.

Sincerely,

J.M.
T.M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 6, 1976

Re: No. 75-1197 - Mathews v. DeCastro

Dear Potter:

I am happy to join your opinion in this case.

Sincerely,
H. A. B.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 6, 1976

No. 75-1197 Mathews v. Castro

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 6, 1976

Re: No. 75-1197 - Mathews v. Castro

Dear Potter:

Please join me.

Sincerely,

WR

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

December 6, 1976

Re: 75-1197 - F. David Mathews v. Helen de Castro

Dear Potter:

Please join me.

Respectfully,

J. P. S.

Mr. Justice Stewart

Copies to the Conference