

# 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



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

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

WJB

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 8 1976

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

1st DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 75-1197

|   |   |   |
|---|---|---|
| F. David Mathews, Secretary of<br>Health, Education, and<br>Welfare, Appellant,<br>v.<br>Helen de Castro. | } | On Appeal from the United<br>States District Court for<br>the Northern District of<br>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.<sup>1</sup>

## 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."<sup>2</sup> To qualify under this sec-

<sup>1</sup> 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.

<sup>2</sup> 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

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2nd DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 75-1197

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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

From: Mr. Justice Stewart

Circulated: \_\_\_\_\_

Recirculated: DEC 10 1976

3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 75-1197

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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,

*TM.*  
T.M.

Mr. Justice Stewart

cc: The Conference



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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

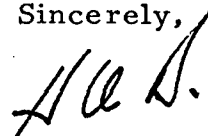
December 6, 1976

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

Dear Potter:

I am happy to join your opinion in this case.

Sincerely,



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,



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,

*John*

Mr. Justice Stewart

Copies to the Conference