

The Burger Court Opinion Writing Database

Dixon v. Love

431 U.S. 105 (1977)

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

May 11, 1977

Re: 75-1513 - Dixon v. Love

Dear Harry:

I join.

Regards,

A handwritten signature in dark ink, appearing to be "WJB", written in a cursive, stylized manner.

Mr. Justice Blackmun

Copies to the Conference

Circulated
6-29-77

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1513

Alan J. Dixon, Secretary of State of Illinois, Appellant, v. Dennis N. Love, etc.	On Appeal from the United States District Court for the Northern District of Illinois.
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[May —, 1977]

MR. JUSTICE BRENNAN, concurring.

I join my Brother STEVENS' concurring opinion which makes clear that appellee's license was revoked under a valid regulation making revocation mandatory if his license had been suspended three times within 10 years. Rule 6-206 (a)(3). Appellee's license was properly suspended for a third time within a 10-year period when he was convicted of a speeding violation on March 31, 1976. This suspension, and both earlier suspensions, were based on convictions for traffic offenses which appellee does not contest here. Under these circumstances, the requirement of a prior hearing mandated by *Bell v. Burson*, 402 U. S. 535 (1971), is not applicable since, as my Brother STEVENS demonstrates, *post*, p. 3, "appellee can hardly complain that he was denied a hearing when that hearing would have revealed only that the revocation of his license was mandatory."

To: The Chief Justice
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Black
 Mr. Justice Brennan
 Mr. Justice Stevens
 Mr. Justice Breyer

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1513

Alan J. Dixon, Secretary of State	} On Appeal from the United
of Illinois, Appellant,	
v.	
Dennis N. Love, etc.	States District Court for the Northern District of Illinois.

[May —, 1977]

MR. JUSTICE BRENNAN, concurring in the result.

My Brother STEVENS' concurring opinion makes clear that appellee's license was revoked under a valid regulation making revocation mandatory if his license had been suspended three times within 10 years. Rule 6-206 (a)(3). Appellee's license was properly suspended for a third time within a 10-year period when he was convicted of a speeding violation on March 31, 1976. This suspension, and both earlier suspensions, were based on convictions for traffic offenses which appellee does not contest here. Under these circumstances, the requirement of a prior hearing mandated by *Bell v. Burson*, 402 U. S. 535 (1971), is not applicable since, as my Brother STEVENS demonstrates, *post*, p. 3, "appellee can hardly complain that he was denied a hearing when that hearing would have revealed only that the revocation of his license was mandatory."

✓

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

From: Mr. Justice Brennan

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3rd DRAFT

Recirculated: 5/13/77

SUPREME COURT OF THE UNITED STATES

No. 75-1513

Alan J. Dixon, Secretary of State	} On Appeal from the United
of Illinois, Appellant,	
<i>v.</i>	
Dennis N. Love, etc.	States District Court for the Northern District of Illinois.

[May —, 1977]

MR. JUSTICE BRENNAN, concurring in the result.

My Brother STEVENS' concurring opinion makes clear that appellee's license was revoked under a valid regulation making revocation mandatory if his license had been suspended three times within 10 years. Rule 6-206 (a)(3). Appellee's license was properly suspended for a third time within a 10-year period when he was convicted of a speeding violation on March 31, 1976. This suspension, and both earlier suspensions, were based on convictions for traffic offenses which appellee does not contest here. Under these circumstances, the requirement of a prior hearing mandated by *Bell v. Burson*, 402 U. S. 535 (1971), is not applicable since, as my Brother STEVENS demonstrates, a hearing was unnecessary to establish what was already clear—that the revocation of appellee's license was mandatory.

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

✓
/

CHAMBERS OF
JUSTICE POTTER STEWART

April 15, 1977

75-1513 - Dixon v. Love

Dear Harry,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.
/

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 28, 1977

Re: No. 75-1513 - Dixon v. Love

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 28, 1977

Re: No. 75-1513, Dixon v. Love

Dear John:

Please join me.

Sincerely,

JM.
T.M.

Mr. Justice Stevens

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: 4/14/77

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 75-1513

Alan J. Dixon, Secretary of State	} On Appeal from the United
of Illinois, Appellant,	
<i>v.</i>	
Dennis N. Love, etc.	States District Court for the Northern District of Illinois.

[April —, 1977]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

The issue in this case is whether Illinois has provided constitutionally adequate procedures for suspending or revoking the license of a driver who repeatedly has been convicted for traffic offenses. The statute and administrative regulations provide for an initial summary decision based on official records, with a full administrative hearing available only after the suspension or revocation has taken effect.

I

The case centers on § 6-206 of the Illinois Driver Licensing Law (c. 6 of The Illinois Vehicle Code). The section is entitled "Discretionary authority to suspend or revoke license or permit." It empowers the Secretary of State to act "without preliminary hearing upon a showing by his records or other sufficient evidence" that a driver's conduct falls into any one of 18 enumerated categories. Ill. Rev. Stat. c. 95½, § 6-206 (a) (1975). Pursuant to his rulemaking authority under this Law, § 6-211 (a),¹ the Secretary has adopted administrative regulations that further define the bases and

¹ Section 6-211 "(a) The Secretary of State shall administer the provisions of this Chapter and may make and enforce rules and regulations relating to its administration."

To: The Chief Justice
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Souter

From: Mr. Justice Blackmun

Circulated: _____

Recirculated: 4/15/77

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1513

Alan J. Dixon, Secretary of State of Illinois, Appellant, v. Dennis N. Love, etc.	}	On Appeal from the United States District Court for the Northern District of Illinois.
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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 18, 1977

No. 75-1513 Dixon v. Love

Dear Harry:

Please join me.

Sincerely,

L. Lewis

Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 18, 1977

Re: 75-1513 - Dixon v. Love

Dear Harry:

Although your opinion is most persuasive,
as of the moment I believe I will adhere to my
vote to dissent and will circulate something
as soon as I can.

Respectfully,



Mr. Justice Blackmun

Copies to the Conference

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

From: Mr. Justice Stevens

Circulated: APR 27 1977

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 75-1513

Alan J. Dixon, Secretary of State	} On Appeal from the United
of Illinois, Appellant,	
<i>v.</i>	
Dennis N. Love, etc.	States District Court for the Northern District of Illinois.

[May —, 1977]

MR. JUSTICE STEVENS, concurring.

While I join the opinion of the Court, I believe it is important to point out that the Court has not rejected the constitutional analysis of the District Court. The District Court held that a statutory scheme which grants the authority to revoke a driver's license on the basis of an *ex parte* determination that certain facts "indicate disrespect for the traffic laws" is invalid. This Court does not disagree. It merely holds that the District Court erred in its assumption that appellee's license was revoked on the authority of the first sentence of Rule 6-206 (a)(3).¹

The Court interprets the Secretary's action as resting on the second sentence of Rule 6-206 (a)(3) which provides that a person's license *must* be revoked if it has been suspended three times in 10 years. Appellee's license had already been suspended twice. A third suspension would have been required under a different rule because appellee had three

¹ "Rule 6-206 (a)(3) provides:

"A person repeatedly involved in collisions or convictions to a degree which indicates the lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle, or whose record indicates disrespect for traffic laws and the safety of other persons on the highway, and who has accumulated sufficient points to warrant a second suspension within a 5 year period, may either be suspended or revoked by the Secretary of State, based upon the number of points in his record. A

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

From: Mr. Justice Stevens

Circulated: _____

Recirculated: 4/29/77

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1513

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v.	
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[May —, 1977]

MR. JUSTICE STEVENS, with whom MR. JUSTICE MARSHALL joins, concurring.

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such

¹ "Rule 6-206 (a) (3) provides:

"A person repeatedly involved in collisions or convictions to a degree which indicates the lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle, or whose record indicates disrespect for traffic laws and the safety of other persons on the highway, and who has accumulated sufficient points to warrant a second suspension within a 5 year period, may either be suspended or revoked by the Secretary of State, based upon the number of points in his record. A person who has been suspended thrice within a 10 year period shall be revoked."

² The District Court construed Rule 6-206 (a) (3) as follows:

"The statute makes suspension or revocation dependent on a determination of whether the driver's repeated involvement in collisions or conviction of offenses indicates lack of ability to use due care or disrespect for the traffic laws and the safety of others. The regulation makes suspension

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

From: Mr. Justice Stevens

Circulated: _____

Recirculated: MAY 12 1977

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

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"A person repeatedly involved in collisions or convictions to a degree which indicates the lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle, or whose record indicates disrespect for traffic laws and the safety of other persons on the highway, and who has accumulated sufficient points to warrant a second suspension within a 5 year period, may either be suspended or revoked by the Secretary of State, based upon the number of points in his record. A person who has been suspended thrice within a 10 year period shall be revoked."

² The District Court construed Rule 6-206 (a) (3) as follows:

"The statute makes suspension or revocation dependent on a determination of whether the driver's repeated involvement in collisions or conviction of offenses indicates lack of ability to use due care or disrespect for the traffic laws and the safety of others. The regulation makes suspension