The Burger Court Opinion Writing Database

Blackledge v. Allison

431 U.S. 63 (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

March 10, 1977

Re: 75-1693 - Blackledge v. Allison

MEMORANDUM TO THE CONFERENCE:

In light of Lewis' memorandum today and the expressions regarding a "narrow" disposition that would reasonably satisfy the "reverse" votes, I too will enter a reverse vote and I will request Potter to take the assignment.

Regards,

WEB

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

CHAMBERS OF
THE CHIEF JUSTICE

April 28, 1977

Re: 75-1693 Blackledge v. Allison

Dear Potter:

Please show me as concurring in the judgment.

Regards,

WEB

Mr. Justice Stewart
cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 10, 1977

RE: No. 75-1693 Blackledge v. Allison

Dear Chief:

Lewis' memo this morning that he's changing his vote from reverse to affirm seems to alter the conference vote to 5-3 to affirm. Potter, Thurgood, Lewis, John and I are the five and you, Byron and Harry would reverse. If you adhere to your vote and therefore I am to assign the writing of the opinion for the Court, I assign it to Lewis.

Sincerely,

Bill

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 11, 1977

RE: No. 75-1693 Blackledge v. Allison

Dear Potter:

I agree.

Sincerely,

Mr. Justice Stewart

cc: The Conference

Supreme Court of the United States

Memorandum

April 6, 1977

No. 75-1693

Dear Lewis,

I would appreciate any suggestions you may have at your convenience — but shall not circulate this until I hear from you.

Thanks. P.S.

SU

Stanley

Ga

MR.

The

Carolin

a writ of habeas corpus. The court dismissed his petition without a hearing, and the Court of Appeals reversed, ruling that in the circumstances of this case summary dismissal of the writ was improper. We granted certiorari to review the judgment of the Court of Appeals.

I

Allison was indicted by a North Carolina grand jury for breaking and entering, attempted safe robbery, and possession of burglary tools. At his arraignment, where he was represented by court-appointed counsel, he initially pleaded not guilty. But after learning that his codefendant planned to plead guilty, he entered a guilty plea to a single count of attempted safe robbery, for which the minimum prison sentence was 10 years and the maximum was life. N. C. Gen. Stat. § 14–89.1.

In accord with the procedure for taking guilty pleas then in effect in North Carolina, the judge in open court read from a printed form 13 questions, generally concerning the defendant's understanding of the charge, its consequences, and the voluntariness of his plea. Allison answered "yes" or "no"

note that Mr. Justice Stevens from Scottsboro the alleged broken promise was by his counsel

cite cases emphasizing free knowledge of guilty plea

Received 7-7-P

See my suggestions

CHAMBERS DRAFT 4/6

I have marked a few suggested changes on pp. 13-14, 16. With those changes, I think the opinion is written narrowly enough that you should join.

- Dave

SUPREME COURT OF THE UNITED STATES

No. 75-1693

Stanley Blackledge, Warden, et al., Petitioners, *v.* Gary Darrell Allison.	On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[April —, 1977]

MR. JUSTICE STEWART delivered the opinion of the Court.

The respondent, Gary Darrell Allison, an inmate of a North Carolina penitentiary, petitioned a federal district court for a writ of habeas corpus. The court dismissed his petition without a hearing, and the Court of Appeals reversed, ruling that in the circumstances of this case summary dismissal of the writ was improper. We granted certiorari to review the judgment of the Court of Appeals.

I

Allison was indicted by a North Carolina grand jury for breaking and entering, attempted safe robbery, and possession of burglary tools. At his arraignment, where he was represented by court-appointed counsel, he initially pleaded not guilty. But after learning that his codefendant planned to plead guilty, he entered a guilty plea to a single count of attempted safe robbery, for which the minimum prison sentence was 10 years and the maximum was life. N. C. Gen. Stat. § 14-89.1.

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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

From: Mr. Justice Stewart

Circulated: APR 7 1977

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75–1693

Stanley Blackledge, Warden, et al., Petitioners, *v.* Gary Darrell Allison. } On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[April —, 1977]

MR. JUSTICE STEWART delivered the opinion of the Court.

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 12, 1977

75-1693, Blackledge v. Allison

Dear Lewis,

I not only have no negative feeling about your proposed concurring opinion, but think it will serve a useful purpose. I hope you will file it.

Sincerely yours,

P.S.
1.

Mr. Justice Powell

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: APR 19 1977

These cases do not in the least reduce the force of the original plea hearing. For the representations of the defendant, his lawyer, and the prosecutor at such a hearing, as well as any findings made by the judge accepting the plea, constitute a formidable barrier in any subsequent collateral proceedings. Solemn declarations in open court carry a strong presumption of verity. The subsequent presentation of conclusory allegations unsupported by specifics is subject to summary dismissal, as are contentions that in the face of the record are wholly incredible. *Machibroda, supra,* at 495 (§ 2255); *Price* v. *Johnston,* 334 U. S. 266, 286–287 (§ 2243).[4]

omission

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this Court held that postconviction collateral relief might be available to a person convicted after having pleaded guilty. See, *e. g., Herman* v. *Claudy,* 350 U. S. 116; *Waley* v. *Johnston,* 316 U. S. 101; *Walker* v. *Johnson,* 312 U. S. 275.

[4] The standards of § 2243 and § 2255 differ somewhat in phrasing. Compare 28 U. S. C. § 2243 (a state prisoner seeking a writ of habeas corpus is to be granted an evidentiary hearing "unless it appears from the application that the applicant . . . is not entitled thereto"), with *id.,* § 2255 (a federal prisoner moving for relief is to be granted a hearing "unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief"). However, the remedy under § 2255 was designed to be "exactly commensurate" with the federal habeas corpus remedy, *Swain* v. *Pressley,* — U. S. —, —; *Hill* v. *United States,* 368 U. S. 424, 427; *United States* v. *Hayman,* 342 U. S. 205, 219, and has been construed in accordance with that design, *e. g., Sanders* v. *United States,* 373 U. S. 1, 6–15. See also Developments in the Law—Federal Habeas Corpus, 83 Harv. L. Rev. 1038, 1173, and n. 126 (1970).

Unlike federal habeas corpus proceedings, a motion under § 2255 is ordinarily presented to the judge who presided at the original conviction and sentencing of the prisoner. In some cases, the judge's recollection of the events at issue may enable him summarily to dismiss a § 2255 motion, even though he could not similarly dispose of a habeas corpus petition challenging a state conviction but presenting identical allegations. Cf. *Machibroda, supra,* at 495 ("Nor were the circumstances alleged of a kind that the District Judge could completely resolve by drawing upon his own personal knowledge or recollection.") To this extent, the standard may be administered in a somewhat different fashion.

Circulated
April 8
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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

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75–1693

Stanley Blackledge, Warden, et al., Petitioners, *v.* Gary Darrell Allison. | On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[April —, 1977]

MR. JUSTICE STEWART delivered the opinion of the Court.

The respondent, Gary Darrell Allison, an inmate of a North Carolina penitentiary, petitioned a federal district court for a writ of habeas corpus. The court dismissed his petition without a hearing, and the Court of Appeals reversed, ruling that in the circumstances of this case summary dismissal was improper. We granted certiorari to review the judgment of the Court of Appeals.

I

Allison was indicted by a North Carolina grand jury for breaking and entering, attempted safe robbery, and possession of burglary tools. At his arraignment, where he was represented by court-appointed counsel, he initially pleaded not guilty. But after learning that his codefendant planned to plead guilty, he entered a guilty plea to a single count of attempted safe robbery, for which the minimum prison sentence was 10 years and the maximum was life. N. C. Gen. Stat. § 14–89.1.

In accord with the procedure for taking guilty pleas then in effect in North Carolina, the judge in open court read from a printed form 13 questions, generally concerning the defendant's understanding of the charge, its consequences, and the voluntariness of his plea. Allison answered "yes" or "no"

HAB

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 10, 1977

MEMORANDUM TO THE CONFERENCE

Re: Cases held for No. 75-1693, Blackledge v. Allison

In the first of the two cases held, No. 76-989, United States v. Mayes, the respondent was sentenced to 15 years imprisonment after having pleaded guilty in May, 1969, to bank robbery. At his plea hearing the federal district judge fully complied with the requirements of the then-existing Rule 11. The respondent's constitutional rights were explained, and when asked he denied that any promises as to sentence had been made. Defense counsel also stated that he had not indicated what sentence might be imposed, except to point out the possibility of hospitalization to cure the respondent's heroin addiction.

The respondent's § 2255 motion alleged that his counsel had promised him that his sentence would not exceed 7 years and that he would be placed in a narcotics treatment center. The Court of Appeals for the Ninth Circuit ruled that the District Court erred in summarily dismissing the § 2255 motion without providing the respondent with some opportunity to prove his allegations.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 14, 1977

Re: No. 75-1693 - Blackledge v. Allison

Dear Potter:

I shall acquiesce in this case but may reconsider if a dissent is written.

Sincerely,

Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 12, 1977

Re: No. 75-1693, Blackledge v. Allison

Dear Potter:

Please join me.

Sincerely,

T.M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 11, 1977

Re: No. 75-1693 - Blackledge v. Allison

Dear Potter:

I feel that you have arrived at a very reasonable resolution of this case, and I am glad to join your opinion.

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.

March 10, 1977

No. 75-1693 Blackledge v. Allison

Dear Chief:

According to my notes, the vote in this case was 4 to affirm and 4 to reverse, with several Justices emphasizing the tentative character of their votes.

I voted to reverse stating - as you would say - that I would not be "bitter" if the judgment were affirmed. At present, our options are limited to affirmance by an equally divided vote or to set the case for reargument. I write to say that, in the interest of avoiding these unattractive alternatives, I will change my vote to affirm.

As stated at the Conference, I do not view the resolution of this particular case as being important even for the litigants. In all probability, as CA4 merely remanded the case for a hearing, respondent will end up the loser.

I do consider the case important in terms of the principles involved. I agree, in substantial part, with the view expressed by Judge Field in his concurring opinion that the system simply cannot work if trial judges are not able to rely on the sworn statements of defendants, in the presence of counsel, made at the time a guilty plea is accepted. I would allow impeachment of such statements only in the most extraordinary circumstances. Despite this feeling (which I believe is shared by all of us), I could join an affirmance of this case on its special facts: namely, that our only record is a printed form, without the aid of a transcript reflecting the circumstances in which the form was executed or the role of respondent's counsel at the time. After all, we would be affirming only the right to a hearing in view of these special facts.

I add that, in my view, the magistrate did not act unreasonably in requesting respondent to provide at least some corroboration of his unusual claim that he had given false testimony at the time of his guilty plea proceeding. But this is not the central issue in the case.

In sum, I will join an opinion affirming CA4 in this case, provided the opinion makes clear that where the state court record of the guilty plea hearing is adequate a federal District Court is entitled to rely on it.

Sincerely,

Lewis

The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 8, 1977

No. 75-1693 Blackledge v. Allison

Dear Potter:

Please join me.

Sincerely,

Lewis

Mr. Justice Stewart

lfp/ss

cc: The Conference

April 11, 1977

No. 75-1693 Blackledge v. Allison

Dear Potter:

Here is a draft of a concurring opinion.

My only purpose is to emphasize the importance of finality and to put a bit of "pressure" on judges and prosecutors to be more meticulous in guilty plea proceedings.

If, however, you have any negative feeling toward my filing this, I will forget it. I think your opinion is excellent.

Sincerely,

Mr. Justice Stewart

LFP/lab

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Mr. Justice Powell

No. 75-1693

Circulated: APR 14 1977

Recirculated: _____

Stanley Blackledge, Warden, et al., Petitioners, *v.* Gary Darrell Allison. | On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[April —, 1977]

MR. JUSTICE POWELL, concurring.

I join the opinion of the Court, and write briefly only to emphasize the importance of finality to a system of justice.* Our traditional concern for "persons whom society has grievously wronged and for whom belated liberation is little enough compensation," *Fay* v. *Noia*, 372 U. S. 391, 441 (1963), has resulted in a uniquely elaborate system of appeals and collateral review, even in cases in which the issues presented has little or nothing to do with innocence of the accused. The substantial societal interest in both innocence and finality of judgments is subordinated in many instances to formalisms.

The case before us today is not necessarily an example of abuse of the system. It *is* an example, however, of how finality can be frustrated by failure to adhere to proper procedures at the trial court level. I do not prejudge the ultimate result in this case by saying that respondent's guilty plea may

*The importance of finality to the criminal defendant and to society was well put by Mr. Justice Harlan:

"Both the individual criminal defendant and society have an interest in insuring that there will at some point be the certainty that comes with an end to litigation, and that attention will ultimately be focused not on whether a conviction was free from error but rather on whether the prisoner can be restored to a useful place in the community." *Sanders* v. *United States*, 373 U. S. 1, 24–25 (1963) (dissenting opinion).

See also *Schneckloth* v. *Bustamonte*, 412 U. S. 218, 256–266 (1973) (POWELL, J., concurring).

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 11, 1977

Re: 75-1693 - Blackledge v. Allison

Dear Potter:

Please join me.

Respectfully,

John

Mr. Justice Stewart

cc: The Conference