

# The Burger Court Opinion Writing Database

## *United States v. Chadwick*

433 U.S. 1 (1977)

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



To: Mr. Justice Brennan  
 Mr. Justice Stewart  
 Mr. Justice White  
 Mr. Justice Marshall  
 Mr. Justice Black  
 Mr. Justice Powell  
 Mr. Justice Rehnquist  
 Mr. Justice Burger

From: The Chief Justice

Circulated: JUN 8 1977

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

Re: 75-1721 - U.S. v. Chadwick

Mr. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to decide whether a search warrant is required before federal agents may open a locked footlocker which they have lawfully seized upon the arrest of its owners and when there is probable cause to believe the footlocker contains contraband.

(1)

On May 8, 1973, Amtrak railroad officials in San Diego observed respondents Gregory Machado and Bridget Leary load a brown footlocker onto a train bound for Boston. Their suspicions were aroused when they noticed that the trunk was unusually heavy for its size, and that it was leaking talcum powder, a substance often used to mask the odor of marijuana or hashish. Because Machado matched a profile used to spot drug traffickers, the railroad officials reported these circumstances to federal agents in San Diego, who in turn relayed the information, together with detailed descrip-

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

CHAMBERS OF  
THE CHIEF JUSTICE

June 9, 1977

Re: 75-1721 - United States v. Chadwick

MEMORANDUM TO THE CONFERENCE:

In the haste to get the typed draft to you yesterday several typos were made and one footnote was omitted:

(a) On page 6, the concluding part of the quote should read: "Court outside the automobile area, or generally, for us to recognize it as a valid exception to the fourth amendment warrant requirement."

(b) Footnote 3 should appear on page 8, at the end of the final paragraph on that page:

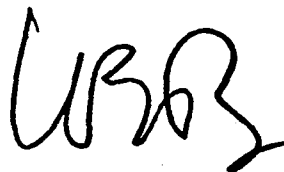
"In this Court the Government has limited the question presented to "[w]hether a search warrant is required before federal agents may open a locked footlocker that is properly in their possession and that they have probable cause to believe contains contraband." Accordingly, this case presents no issue of the application of the exclusionary rule.

(c) Add to footnote 4, as the concluding sentence:

It is not readily apparent how the Government's contention that the Warrant Clause applies to high privacy areas, both within and without the home, can be reconciled with its earlier contention that judicial warrants are appropriate only for searches conducted within the home.

Minor stylistic changes are being made for the print circulation which you will receive later on.

Regards,



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

CHAMBERS OF  
THE CHIEF JUSTICE

June 10, 1977

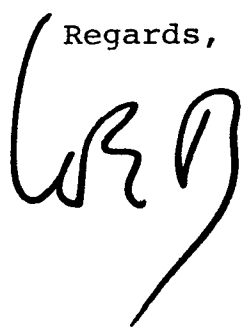
Re: 75-1721 United States v. Chadwick

Dear Bill:

I am prepared to alter footnote 9 to read as follows if that will satisfy you:

"Of course, there may be other justifications for a warrantless search of luggage taken from a suspect at the time of his arrest; for example, if officers have reason to believe that luggage contains some immediately dangerous instrumentality, such as an explosive, it would be foolhardy to transport it to the station house without opening the luggage and disarming the weapon. See, e.g., United States v. Johnson, 467 F.2d 630, 639 (CA2 1972)."

Regards,



Mr. Justice Brennan

cc: The Conference

6.13 and  
STYLISTIC CHANGES

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

From: The Chief Justice

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

Recirculated: JUN 20 1977

1st PRINTED DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 75-1721

|                            |   |                                     |
|----------------------------|---|-------------------------------------|
| United States, Petitioner, | } | On Writ of Certiorari to the United |
| v.                         |   | States Court of Appeals for the     |
| Joseph A. Chadwick et al.  |   | First Circuit.                      |

[June —, 1977]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari in this case to decide whether a search warrant is required before federal agents may open a locked footlocker which they have lawfully seized at the time of the arrest of its owners, when there is probable cause to believe the footlocker contains contraband.

(1)

On May 8, 1973, Amtrak railroad officials in San Diego observed respondents Gregory Machado and Bridget Leary load a brown footlocker onto a train bound for Boston. Their suspicions were aroused when they noticed that the trunk was unusually heavy for its size, and that it was leaking talcum powder, a substance often used to mask the odor of marihuana or hashish. Because Machado matched a profile used to spot drug traffickers, the railroad officials reported these circumstances to federal agents in San Diego, who in turn relayed the information, together with detailed descriptions of Machado and the footlocker, to their counterparts in Boston.

When the train arrived in Boston two days later, federal narcotics agents were on hand. Though the officers had not obtained an arrest or search warrant, they had with them a police dog trained to detect marihuana. The agents identified Machado and Leary and kept them under surveillance as they

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

CHAMBERS OF  
THE CHIEF JUSTICE

June 22, 1977

Re: Cases held for 75-1721, United States v.  
Chadwick

MEMORANDUM TO THE CONFERENCE:

76-5132, Aviles v. United States; 76-5143, Soriano v. United States. (DENY) These cases arose from the same set of facts. Each involved two searches: one, a search of a house pursuant to an allegedly defective warrant, is not certworthy in my view. In the other, police observed petitioners, carrying suitcases, leave their residence and enter a taxi. The police had probable cause to believe that the suitcases contained contraband. As the taxi arrived at Miami International Airport, the police arrested petitioners and removed the suitcases from the trunk of the taxi. One of the suitcases was then opened without a warrant, revealing heroin. CA 5 en banc upheld the warrantless search under the automobile exception of Chambers v. Maroney.

In Chadwick, the relationship between the footlocker and the car was only a coincidence. Accordingly, Chadwick does not settle whether the scope of an automobile search properly extends to luggage seized from the trunk. The question is whether the rationale of Chadwick or of Chambers should apply to such searches. Although there is something to be said for a grant, I am reminded of Adlai Stevenson's statement that it does not pay to pull up the radishes every other day to see how they are growing. - I lean to waiting a while before we take another case in this area. I might "join three."

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 9, 1977

RE: No. 75-1721 United States v. Chadwick

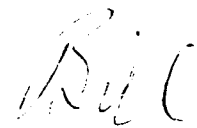
Dear Chief:

Please join me in your fine opinion in this case.

I do have one suggestion. Would you consider deleting the last sentence of footnote 9 which states, "It may also be appropriate to inventory such property for protective reasons, pursuant to standard procedures. See South Dakota v. Opperman, supra." I dissented in Opperman, but that's not why I make the suggestion.

My concern is that the sentence may be taken to imply that the error of the federal agents was not in searching this particular trunk, but in failing to search every trunk they seized. As your opinion persuasively demonstrates, automobile searches involve special considerations, and cases involving auto searches, like Opperman, cannot automatically be extended to cover other sorts of personal property. Moreover, while I assume that the "protective reasons" in footnote 9 refer to protection of the police from false claims of theft (which as I understood was the rationale for the inventory search in Opperman), the sentence, coming as it does at the end of a footnote concerned, quite properly, with the officers' authority to search luggage they "have reason to believe contains some dangerous instrumentality," may confuse the reader about either the rationale of standardized inventory searches or the state of knowledge that justifies a particularized search for explosives.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

June 10, 1977

RE: No. 75-1721 United States v. Chadwick

Dear Chief:

Your proposed revision of note 9 is entirely satisfactory, and I very much appreciate your willingness to make it.

Sincerely,



The Chief Justice

cc: The Conference



First, I agree wholeheartedly with my Brother Blackmun that it is "unfortunate" that the Government in this case "sought . . . to vindicate an extreme view of the Fourth Amendment." Post, at \_\_\_\_\_. It is unfortunate, in my view, not because this argument somehow "distract[ed]" the Court from other more meritorious arguments made by the Government -- these arguments are addressed and convincingly rejected in the Court's opinion -- but because it is deeply distressing that the Department of Justice, whose mission is to protect the constitutional liberties of the people of the United States, should even appear to be seeking to subvert

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 75-1721

United States, Petitioner, } On Writ of Certiorari to the United  
                                   v.                        } States Court of Appeals for the  
 Joseph A. Chadwick et al. } First Circuit.

[June —, 1977]

MR. JUSTICE BRENNAN, concurring.

I fully join THE CHIEF JUSTICE's thorough opinion for the Court. I write only to comment upon two points made by my Brother BLACKMUN's dissent.

First, I agree wholeheartedly with my Brother BLACKMUN that it is "unfortunate" that the Government in this case "sought . . . to vindicate an extreme view of the Fourth Amendment." *Post*, at —. It is unfortunate, in my view, not because this argument somehow "distract[ed]" the Court from other more meritorious arguments made by the Government—these arguments are addressed and convincingly rejected in the Court's opinion—but because it is deeply distressing that the Department of Justice, whose mission is to protect the constitutional liberties of the people of the United States, should even appear to be seeking to subvert them by extreme and dubious legal arguments. It is gratifying that the Court today unanimously rejects the Government's position.

Second, it should be noted that while Part II of the dissent suggests a number of possible alternative courses of action that the agents could have followed without violating the Constitution, no decision of this Court is cited to support the constitutionality of these courses, but only some decisions of courts of appeals. *Post*, at — nn. 4 and 5. In my view, it is not at all obvious that the agents could legally have searched the footlocker had they seized it after

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

CHAMBERS OF  
JUSTICE POTTER STEWART

June 10, 1977

Re: No. 75-1721, United States v. Chadwick

Dear Chief,

I am glad to join your opinion for the Court in this case. The minor change you proposed in response to Bill Brennan's suggestion seems a good one.

Sincerely yours,

PS.  
/

The Chief Justice

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 10, 1977

Re: No. 75-1721 - United States v. Chadwick

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

Copies to Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 10, 1977

Re: No. 75-1721 - United States v. Chadwick

Dear Chief:

Please join me.

Sincerely,

*T.M.*

T.M.

Mr. Chief Justice

cc: The Conference

June 10, 1977

Re: No. 75-1721 - United States v. Chadwick

Dear Chief:

In view of my possible dissent, I am in a poor position to make a suggestion. I wonder, however, about the advisability of your footnote 6. Boyd v. United States has given the Court trouble in the last two or three years. I thought we had cut back on it somewhat, particularly in Andresen v. United States, 427 U.S. 463 (1976), which you joined. Certain aspects of Boyd are acceptable, but there are others which I am not enthusiastic about, and I would hope the Court would not give lip service to them.

Sincerely,

LAB

The Chief Justice

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 10, 1977

Re: No. 75-1721 - United States v. Chadwick

Dear Chief:

Although I have no particular difficulty with Parts (1), (2), and (3) of your opinion, I am somewhat troubled by Part (4). I shall therefore try my hand at a dissent and get it to you as soon as possible.

Sincerely,

*H.A.B.*

The Chief Justice

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

No. 75-1721 - United States v. Chadwick

From: Mr. Justice Blackmun

Circulated: 2-11-77

MR. JUSTICE BLACKMUN, dissenting.

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

I think it somewhat unfortunate that the Government sought a reversal in this case primarily to vindicate an extreme view of the Fourth Amendment that would restrict the protection of the Warrant Clause to private dwellings and a few other "high privacy" areas. I reject this argument for the reasons stated in Parts (2) and (3) of the Court's opinion, with which I am in general agreement. The overbroad nature of the Government's principal argument, however, has served to distract the Court from the more important task of defining the proper scope of a search incident to an arrest. The Court fails to accept the opportunity this case presents to apply the rationale of recent decisions and develop a clear doctrine concerning the proper



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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 13, 1977

No. 75-1721 U.S. v. Chadwick

Dear Chief:

Please join me.

Sincerely,

*Lewis*

The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

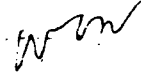
June 15, 1977

Re: No. 75-1721 United States v. Chadwick

Dear Harry:

Please join me in your dissent.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

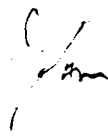
June 9, 1977

Re: 75-1721 - U. S. v. Chadwick

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference