

The Burger Court Opinion Writing Database

Smith v. Organization of Foster Families for Equality & Reform

431 U.S. 816 (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

June 8, 1977

RE: (76-180 - Smith v. Organization of Foster
(Families for Equality and Reform
(
(76-183 - Shapiro v. OFFER
(
(76-5193 - Rodriguez v. OFFER
(
(76-5200 - Gandy v. OFFER

Dear Potter:

Please show me joining your opinion and
concurrence in the judgment.

Regards,

LEB B

Mr. Justice Stewart

Copies to the Conference

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

From: Mr. Justice Brennan

Circulated: 3/19/77

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-180, 76-183, 76-5193, AND 76-5200

Henry Smith, individually and as
Administrator of New York City
Human Resources Administra-
tion, et al., Appellants,

76-180 v.

Organization of Foster Families
for Equality and Reform et al.

Bernard Shapiro, individually and
as Executive Director of the New

York State Board of Social
Welfare, et al., Appellants,

76-183 v.

Organization of Foster Families
for Equality and Reform et al.

Naomi Rodriguez et al.,
Appellants,

76-5193 v.

Organization of Foster Families
for Equality and Reform et al.

Danielle Gandy et al., Appellants,

76-5200 v.

Organization of Foster Families
for Equality and Reform et al.

On Appeals from the United
States District Court for
the Southern District of
New York.

[May —, 1977]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

22, 26, 28, 34, 36

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

From: Mr. Justice Brennan

Circulated: _____

Circulated: 5/26/77

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-180, 76-183, 76-5193, AND 76-5200

Henry Smith, individually and as
Administrator of New York City
Human Resources Administra-
tion, et al., Appellants,

76-180 v.

Organization of Foster Families
for Equality and Reform et al.

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York State Board of Social
Welfare, et al., Appellants,

76-183 v.

Organization of Foster Families
for Equality and Reform et al.

Naomi Rodriguez et al.,
Appellants,

76-5193 v.

Organization of Foster Families
for Equality and Reform et al.

Danielle Gandy et al., Appellants,

76-5200 v.

Organization of Foster Families
for Equality and Reform et al.

On Appeals from the United
States District Court for
the Southern District of
New York.

[May —, 1977]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

stylistic changes and
26-27, 29

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

From: Mr. Justice Brennan

Circulated: _____

Recirculated: 6/8/77

4th DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-180, 76-183, 76-5193, AND 76-5200

Henry Smith, individually and as
Administrator of New York City
Human Resources Administra-
tion, et al., Appellants,
76-180 v.

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Bernard Shapiro, individually and
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Welfare, et al., Appellants,
76-183 v.

Organization of Foster Families
for Equality and Reform et al.

Naomi Rodriguez et al.,
Appellants,
76-5193 v.

Organization of Foster Families
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Danielle Gandy et al., Appellants,
76-5200 v.

Organization of Foster Families
for Equality and Reform et al.

On Appeals from the United
States District Court for
the Southern District of
New York.

[May —, 1977]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

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

MEMORANDUM TO THE CONFERENCE

From: Mr. Justice Brennan

Circulated: 6/14/77

Recirculated: _____

RE: Cases Held for No. 76-180, Smith v. Foster Families

No. 76-5889 Eason v. Maloney

Debra, then aged four months, was informally placed with petitioner by her natural mother in 1968. In February 1974, after a neglect proceeding against the mother, custody of Debra was awarded to respondent state welfare commissioner, who placed her with petitioner as foster parent. In October 1974, respondent returned Debra to her mother. (Petitioner claims that she was given no notice or explanation of this action, pet. at 4; respondent says the removal was at petitioner's request, resp. at 3, and that procedures for administrative review are available on request, resp. at 1a-4a. The state courts made no finding on this point.) Petitioner then sought to reopen the original neglect proceeding, at which she had been represented, to have the commissioner's custody revoked and custody awarded to her. The Juvenile Court held that it had no jurisdiction over this motion, because by statute such a motion could only be made by specified individuals, not including a foster parent. The Connecticut Supreme Court affirmed, by a 3-2 vote, rejecting petitioner's contention that this interpretation of the statute denied her due process and equal protection.

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 24, 1977

Re: No. 76-180, Etc., Smith v.
Organization of Foster Families

Dear Bill,

I hope to write a short concurring opinion
in this case.

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to 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

SUPREME COURT OF THE UNITED STATES

From: Mr. Justice Stewart

Circulated: JUN 4 1977

Nos. 76-180, 76-183, 76-5193, AND 76-5200

Recirculated: _____

Henry Smith, individually and as
Administrator of New York City
Human Resources Administration,
et al., Appellants,

76-180 v.

Organization of Foster Families
for Equality and Reform et al.

Bernard Shapiro, individually and
as Executive Director of the New
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76-183 v.

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Naomi Rodriguez et al.,
Appellants,

76-5193 v.

Organization of Foster Families
for Equality and Reform et al.

Danielle Gandy et al., Appellants,
76-5200 v.

Organization of Foster Families
for Equality and Reform et al.

On Appeals from the United
States District Court for
the Southern District of
New York.

[May __, 1977]

MR. JUSTICE STEWART, concurring in the judgment.

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: JUN 9 1977

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 76-180, 76-183, 76-5193, AND 76-5200

Henry Smith, individually and as
Administrator of New York City
Human Resources Administra-
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76-180 v.

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76-183 v.

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Danielle Gandy et al., Appellants,

76-5200 v.

Organization of Foster Families
for Equality and Reform et al.

On Appeals from the United
States District Court for
the Southern District of
New York.

[June —, 1977]

MR. JUSTICE STEWART, with whom THE CHIEF JUSTICE and
MR. JUSTICE REHNQUIST join, concurring in the judgment.

The foster parent-foster child relationship involved in this
litigation is, of course, wholly a creation of the State. New

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 1, 1977

Re: Nos. 76-180, 76-183, 76-5193 & 76-5200 -
Smith v. Organization of Foster Families

Dear Bill:

Please join me.

Sincerely,



Mr. Justice Brennan

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 23, 1977

Re: Nos. 76-180, 76-183, 76-5193, and 76-5200, Smith v. Organization
of Foster Families

Dear Bill:

Please join me.

Sincerely,

J.M.

T.M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 7, 1977

Re: Nos. 76-180, 76-183, 76-5193,
76-5200 - Smith v. OFFER

Dear Bill:

Please join me.

Sincerely,

H.A.B.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 1, 1977

No. 76-180 Smith v. Organization of
Foster Families

Dear Bill:

Please join me.

Sincerely,

L. Lewis

Mr. Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 7, 1977

Re: Nos. 76-180, 76-183, 76-5193, and 76-5200 -
Smith v. Organization of Foster Families, et al.

Dear Potter:

Please join me in your concurring opinion.

Sincerely, *WHR*

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 23, 1977

RE: 76-180 - Smith v. Organization of Foster Families

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Brennan

Copies to the Conference