

The Burger Court Opinion Writing Database

Darden v. Florida

430 U.S. 704 (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

January 6, 1977

RE: 76-5382 - Darden v. Florida

Dear Potter:

I join.

Regards,



Mr. Potter Stewart

Copies to the Conference

To: Mr. Justice Buchanan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blaikie
Mr. Justice Campbell
Mr. Justice Hodges
Mr. Justice Shirreffs

From: The Chief Justice

Circulated: APR 12 1977

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-5382

Willie Jasper Darden, Petitioner,
v. State of Florida. } On Writ of Certiorari to the Supreme
Court of Florida.

[April —, 1977]

PER CURIAM.

The writ of certiorari is dismissed as improvidently granted.

To: Mr. Justice Branham
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Holmes
Mr. Justice Stone
Mr. Justice Cardozo
Mr. Justice Sutherland

From: The Chief Justice

Circulated:

APR 13 1977

Recirculated:

SUPREME COURT OF THE UNITED STATES

No. 76-5382

Willie Jasper Darden,
Petitioner,
v.
State of Florida. } On Writ of Certiorari to the Supreme
Court of Florida.

[April —, 1977]

PER CURIAM.

The writ of certiorari is dismissed as improvidently granted.

MR. JUSTICE BRENNAN, with whom MR. JUSTICE MARSHALL joins, dissents and adhering to his view that capital punishment is in all circumstances prohibited as cruel and unusual punishment by the Eighth and Fourteenth Amendments, would set aside the death sentence imposed in this case.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 3, 1977

RE: No. 76-5382 Darden v. Florida

Dear Potter:

I agree with the Order you have prepared
in the above.

Sincerely,

Bill

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 12, 1977

~~Open and direct mail~~
~~Telephone and mail~~
~~WPA~~

RE: No. 76-5382 Darden v. Florida

Dear Chief:

Would you please add the following at the foot of
your proposed Per Curiam in the above:

"MR. JUSTICE BRENNAN dissents and, adhering
to his view that capital punishment is in all
circumstances prohibited as cruel and unusual
punishment by the Eighth and Fourteenth Amend-
ments, would set aside the death sentence im-
posed in this case."

Sincerely,

Bill

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 3, 1977

MEMORANDUM TO THE CONFERENCE

Re: No. 76-5382, Darden v. Florida

Our unlimited grant of certiorari in No. 76-5832, Darden v. Florida, has been relied on in two other capital cases to support petitions for rehearing. Both No. 76-5284, Spencer v. Georgia, and No. 76-5373, Machetti v. Georgia, rely on the arguments to broaden or re-think Witherspoon presented under Question 4 of the Darden petition. It is my understanding that we granted certiorari in the Darden case to consider the validity of the prosecutor's summation, rather than the Witherspoon-related issues or the Brathwaite-type identification issues also raised in the petition. If we enter the attached order limiting certiorari to the summation question, we can then properly deny the rehearing petitions in Nos. 76-5284 and 76-5373.

Q.S.
P.S.

O R D E R

No. 76-5382, DARDEN v. FLORIDA

Certiorari granted November 1, 1976, is limited to
Question 1 presented by the petition, dealing with whether the
prosecution's summation to the jury in the circumstances of
this case deprived the petitioner of due process of law.

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 13, 1977

Re: No. 76-5382, Darden v. Florida

Dear Chief,

I agree with your proposed Per Curiam
dismissal of the writ in this case.

Sincerely yours,

P.S.
1.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 4, 1977

Re: No. 76-5382 - Darden v. Florida

Dear Potter:

I join your proposed order.

Sincerely,



Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 12, 1977

Re: No. 76-5382 - Darden v. Florida

Dear Chief:

I will not dissent from this disposition.

Sincerely,



The Chief Justice

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 4, 1977

Re: No. 76-5382, Darden v. Florida

Dear Potter:

I have no objection to your suggested order.

Sincerely,

JM.

T. M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 12, 1977

Re: No. 76-5382, Darden v. Florida

Dear Chief:

Please add my name to Brennan's dissent in
this case.

Sincerely,


T. M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

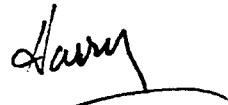
January 4, 1977

Re: No. 76-5382 - Darden v. Florida

Dear Potter:

I am in the position of Bill Rehnquist as he expressed it in his note to you of January 3.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 13, 1977

Re: No. 76-5382 - Darden v. Florida

Dear Chief:

I, too, would not dissent from the proposed disposition.

Sincerely,

HAR

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 3, 1977

No. 76-5382 Darden v. Florida

Dear Potter:

Please join me in your proposed order.

Sincerely,



Mr. Justice Stewart

1fp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 13, 1977

No. 76-5382 Darden v. Florida

Dear Chief:

I agree with the DIG in this case.

Sincerely,



The Chief Justice

Copies to the Conference

LFP/lab

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 3, 1977

Re: No. 76-5382 - Darden v. Florida

Dear Potter:

I was not one of those who voted to grant certiorari in this case, but if your proposed order is acceptable to the other "grantors", it is certainly acceptable to me.

Sincerely,

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 12, 1977

Re: No. 76-5382 - Darden v. Florida

Dear Chief:

Please join me.

Sincerely,
W

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 3, 1977

Re: 76-5382 - Darden v. Florida

Dear Potter:

Please join me in your proposed order.

Respectfully,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 13, 1977

Re: 76-5382 - Darden v. Florida

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference