

# The Burger Court Opinion Writing Database

## *Briscoe v. Bell*

432 U.S. 404 (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

(6)

CHAMBERS OF  
THE CHIEF JUSTICE

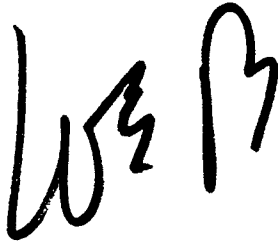
June 6, 1977

Re: 76-60 Briscoe v. Bell

Dear Thurgood:

I join.

Regards,

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

Mr. Justice Marshall

cc: The Conference

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

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CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 31, 1977

RE: No. 76-60 Briscoe v. Bell

Dear Thurgood:

I agree.

Sincerely,

*Bill*

Mr. Justice Marshall

cc: The Conference

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

(7) ✓  
✓

CHAMBERS OF  
JUSTICE POTTER STEWART

May 27, 1977

Re: No. 76-60, Briscoe v. Bell

Dear Thurgood,

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

Sincerely yours,

P.S.  
/

Mr. Justice Marshall

Copies to the Conference

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

(4)

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 31, 1977

Re: No. 76-60 - Briscoe v. Bell

Dear Thurgood:

Join me, please. I may write something  
on the side.

Sincerely,



Mr. Justice Marshall

Copies to Conference

MAY 27 1977

No. 76-60, Briscoe v. Bell

MR. JUSTICE MARSHALL delivered the opinion of the Court.

At issue in this case is the construction of §4 of the Voting Rights Act of 1965, 42 USC §1973 et seq. "The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting." South Carolina v. Katzenbach, 383 US 301, 308 (1966).

While the Act has had a dramatic effect in increasing the participation of black citizens in the electoral process, both as voters and elected officials, Congress has not viewed it as an unqualified success.<sup>1/</sup>

Most recently, as part of the 1975 amendments to the Voting Rights Act, Pub. L. No. 94-73, 89 Stat. 400, Congress extended the Act's strong protections to cover language minorities -- that is, citizens living in environments where the dominant language is not English.

Congress concluded after extensive hearings that there was "overwhelming evidence" showing "the ingenuity and prevalence of discriminatory practices that have been used to dilute the voting strength and otherwise affect the voting rights of language minorities."<sup>2/</sup> Concern was particularly expressed over the plight of Mexican-American citizens in Texas, a State that had not been covered by the 1965 Act.<sup>3/</sup>

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

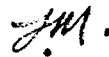
June 2, 1977

Re: No. 76-60 - Briscoe v. Bell

Dear Bill:

In response to your concerns, I would be happy to add the following at the end of footnote 6: "Petitioners disclaimed any constitutional challenge to the Act."

Sincerely,



T. M.

Mr. Justice Rehnquist

cc: The Conference

P. 3

JUN 2 1977

Printed  
1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 76-60

Dolph Briscoe, Governor of Texas, et al., Petitioners, v. Griffin B. Bell, Attorney General of the United States, et al.	}	On Writ of Certiorari to the United States Court of Appeals for the Dis- trict of Columbia Cir- cuit.
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[June —, 1977]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

At issue in this case is the construction of § 4 of the Voting Rights Act of 1965, 42 U. S. C. § 1973 *et seq.* "The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting." *South Carolina v. Katzenbach*, 383 U. S. 301, 308 (1966). While the Act has had a dramatic effect in increasing the participation of black citizens in the electoral process, both as voters and elected officials, Congress has not viewed it as an unqualified success.<sup>1</sup> Most recently, as part of the 1975 amendments to the Voting Rights Act, Pub. L. No. 94-73, 89 Stat. 400, Congress extended the Act's strong protections to cover language minorities—that is, citizens living in environments where the dominant language is not English. Congress concluded after extensive hearings that there was "overwhelming evidence" showing "the ingenuity and prevalence of discriminatory practices that have been used to dilute the voting strength and otherwise affect the voting rights of language minorities."<sup>2</sup> Concern

<sup>1</sup> See, e. g., S. Rep. No. 94-295, 94th Cong., 1st Sess., 13-15 (1975) (hereafter "Senate Report"); H. R. Rep. No. 94-196, 94th Cong., 1st Sess., 6-8 (1975) (hereafter "House Report").

<sup>2</sup> Senate Report, at 30, 35; House Report, at 22, 26-27. See § 4 (f) (1) of the Act, 42 U. S. C. § 1973b (f) (1):



P. 3, 4, 7, 10  
stylistic changes  
throughout

JUN 3 1977

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-60

Dolph Briscoe, Governor of Texas, et al., Petitioners, v. Griffin B. Bell, Attorney General of the United States, et al.	}	On Writ of Certiorari to the United States Court of Appeals for the Dis- trict of Columbia Cir- cuit.
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[June —, 1977]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

At issue in this case is the construction of § 4 of the Voting Rights Act of 1965, 42 U. S. C. § 1973 *et seq.* "The Voting Rights Act was designed by Congress to banish the blight of racial discrimination in voting." *South Carolina v. Katzenbach*, 383 U. S. 301, 308 (1966). While the Act has had a dramatic effect in increasing the participation of black citizens in the electoral process, both as voters and elected officials, Congress has not viewed it as an unqualified success.<sup>1</sup> Most recently, as part of the 1975 amendments to the Voting Rights Act, Pub. L. No. 94-73, 89 Stat. 400, Congress extended the Act's strong protections to cover language minorities—that is, citizens living in environments where the dominant language is not English. Congress concluded after extensive hearings that there was "overwhelming evidence" showing "the ingenuity and prevalence of discriminatory practices that have been used to dilute the voting strength and otherwise affect the voting rights of language minorities."<sup>2</sup> Concern

<sup>1</sup> See, e. g., S. Rep. No. 94-295, 94th Cong., 1st Sess., 13-15 (1975) (hereafter "Senate Report"); H. R. Rep. No. 94-196, 94th Cong., 1st Sess., 6-8 (1975) (hereafter "House Report").

<sup>2</sup> Senate Report, at 30, 35; House Report, at 22, 26-27. See § 4 (f) (1) of the Act, 42 U. S. C. § 1973b (f) (1):

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

(5)

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

June 6, 1977

Re: No. 76-60 - Briscoe v. Bell

Dear Thurgood:

Please join me.

Sincerely,

H.A.B.

Mr. Justice Marshall

cc: The Conference

✓

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 1, 1977

No. 76-60 Briscoe v. Bell

Dear Thurgood:

Bill Rehnquist's suggestions would enable me also to join your opinion as well as the judgment.

I have followed Katzenbach on principles of stare decisis. But as the Act applies only to selected states, rather than all, I probably would have been with Hugo Black on the constitutionality issue.

Sincerely,

*Lewis*

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

June 16, 1977

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

8

No. 76-60    Briscoe v. Bell

Dear Thurgood:

Please add at the end of your opinion:

"Mr. Justice Powell concurs in the judgment  
of the Court."

Sincerely,

*Lewis*

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 1, 1977

Re: No. 76-60 - Briscoe v. Bell

Dear Thurgood:

I voted with you at Conference, as did everyone else, and certainly agree with the result you reach. I think if Morris v. Gressette is to come out the way it does, Briscoe v. Bell should come out the way you have written it. I am wondering if you would consider the following change on page 8, which I believe conforms to the facts, and would make it easier for me to join your opinion as well as concur in the judgment. In the second sentence of the first full paragraph on page 8, would you insert after the words "voting discrimination" the phrase "this Court has held that". Would you then add a footnote at the end of the sentence to the following effect: "Texas brought its action in a single judge district court, and expressly disclaimed any attack on the constitutionality of the act."

Sincerely,



Mr. Justice Marshall

Copies to the Conference

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

(M)

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 3, 1977

Re: No. 76-60 - Briscoe v. Bell

Dear Thurgood:

Please join me.

Sincerely,

*Wm*

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

✓  
✓  
①

May 27, 1977

Re: 76-60 - Briscoe v. Bell

Dear Thurgood:

Please join me.

Respectfully,



Mr. Justice Marshall

Copies to the Conference