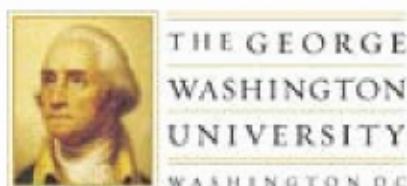


The Burger Court Opinion Writing Database

Quilloin v. Walcott

434 U.S. 246 (1978)

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

December 27, 1977

Dear Thurgood:

Re: 76-6372 Quilloin v. Walcott

I join your December 16 draft.

Regards,

WB

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 28, 1977

RE: No. 76-6372 Quilloin v. Walcott

Dear Thurgood:

I join your December 16 draft.

Sincerely,

Bill

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 13, 1977

Re: No. 76-6372, Quilloin v. Walcott

Dear Thurgood,

I agree with Bill Rehnquist's suggestion contained in his letter to you of December 12. Assuming that that small change will be made, I am glad to join your opinion for the Court.

Sincerely yours,

P.S.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 9, 1977

Re: No. 76-6372 — Quilloin v. Walcott

Dear Thurgood:

I join.

Sincerely,



Mr. Justice Marshall

Copies to the Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 8, 1977

MEMORANDUM TO THE CONFERENCE

Re: No. 76-6372, Quilloin v. Walcott

As you will recall, there was some concern that this opinion should issue before January 1, the effective date of the new statute. I apologize for the delay in circulating the opinion. It just cannot be justified. I am sorry.

In any event, it does not appear that the new statute would provide appellant with any greater rights or protection than the trial court has already afforded him, and there may therefore be less reason that we had previously supposed to issue the opinion before January 1.

T. M.

T. M.

12/8/77

No. 76-6372, Quilloin v. Walcott

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The issue in this case is the constitutionality of Georgia's adoption laws as applied to deny an unwed father authority to prevent adoption of his illegitimate child. The child was born in December 1964 and has been in the custody and control of his mother, appellee Ardell Williams Walcott, for his entire life. The mother and the child's natural father, appellant Leon Webster Quilloin, never married each other or established a home together, and in September 1967 the mother married Randall Walcott.^{1/} In March 1976, she consented to adoption of the child by her husband, who immediately filed a petition for adoption. Appellant attempted to block the adoption and to secure visitation rights, although he did not seek custody or object to the child's continuing

P. 10

Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: Mr. Justice Marshall

Circulated: DEC 9 1977

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 76-6372

Leon Webster Quilloin, Appellant,
 v.
 Ardell Williams Walcott et al. } On Appeal from the Su-
 } preme Court of Georgia.

[January —, 1978]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The issue in this case is the constitutionality of Georgia's adoption laws as applied to deny an unwed father authority to prevent adoption of his illegitimate child. The child was born in December 1964 and has been in the custody and control of his mother, appellee Ardell Williams Walcott, for his entire life. The mother and the child's natural father, appellant Leon Webster Quilloin, never married each other or established a home together, and in September 1967 the mother married Randall Walcott.¹ In March 1976, she consented to adoption of the child by her husband, who immediately filed a petition for adoption. Appellant attempted to block the adoption and to secure visitation rights, although he did not seek custody or object to the child's continuing to live with appellees. Although appellant was not found to be an unfit parent, the adoption was granted over his objection.

In *Stanley v. Illinois*, 405 U. S. 645 (1972), this Court held that the State of Illinois was barred, as a matter of both due process and equal protection, from taking custody of the children of an unwed father, absent a hearing and a particularized finding that the father was an unfit parent. The Court

¹ The child lived with his maternal grandmother for the initial period of the marriage, but moved in with appellees in 1969 and lived with them thereafter.

16 DEC 1977

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 76-6372

Leon Webster Quilloin, Appellant,
v.
Ardell Williams Walcott et al. } On Appeal from the Supreme Court of Georgia.

[January —, 1978]

MR. JUSTICE MARSHALL delivered the opinion of the Court.

The issue in this case is the constitutionality of Georgia's adoption laws as applied to deny an unwed father authority to prevent adoption of his illegitimate child. The child was born in December 1964 and has been in the custody and control of his mother, appellee Ardell Williams Walcott, for his entire life. The mother and the child's natural father, appellant Leon Webster Quilloin, never married each other or established a home together, and in September 1967 the mother married Randall Walcott.¹ In March 1976, she consented to adoption of the child by her husband, who immediately filed a petition for adoption. Appellant attempted to block the adoption and to secure visitation rights, but he did not seek custody or object to the child's continuing to live with appellees. Although appellant was not found to be an unfit parent, the adoption was granted over his objection.

In *Stanley v. Illinois*, 405 U. S. 645 (1972), this Court held that the State of Illinois was barred, as a matter of both due process and equal protection, from taking custody of the children of an unwed father, absent a hearing and a particularized finding that the father was an unfit parent. The Court

¹ The child lived with his maternal grandmother for the initial period of the marriage, but moved in with appellees in 1969 and lived with them thereafter.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 20, 1977

Re: No. 76-6372 - Quilloin v. Illinois

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.

December 14, 1977

No. 76-6372 Quilloin v. Walcott

Dear Thurgood:

Although I voted tentatively to reverse on equal protection grounds, you have written the opinion so skillfully (and narrowly) on an "as applied" basis that I am happy to join you..

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

December 12, 1977

Re: No. 76-6372 - Quilloin v. Walcott

Dear Thurgood:

Please join me. I would appreciate it if you could see your way clear to make one change in the last sentence of footnote 12 on page 4 of the presently circulating footnote attached to the draft opinion. That sentence presently reads:

"The new law expressly recognizes the right of an unwed father to petition for legitimation subsequent to the filing of an adoption petition concerning his child"

In order to make clear that we are not deciding a constitutional question sub silentio in a footnote, I would like to see the language changed to make clear that the "right" referred to is a statutory one; something along the following lines would suit me fine:

"The new law expressly gives the unwed father the right to petition for legitimation"

Sincerely,



Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

December 8, 1977

Re: 76-6372 - Quilloin v. Walcott

Dear Thurgood:

Please join me.

Respectfully,



Mr. Justice Marshall
Copies to the Conference