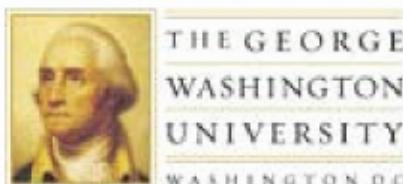


The Burger Court Opinion Writing Database

In the Matter of Mary C. Northern
434 U.S. 1090 (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

February 21, 1978

MEMORANDUM FOR THE CONFERENCE

An Order in this form will be entered at
10:00 a.m., Wednesday, February 22.

Regards,

WB

WEDNESDAY, FEBRUARY 22, 1978

ORDER IN PENDING CASE

NO. A-695 IN THE MATTER OF MARY C. NORTHERN

This application for a stay of the mandate of the Tennessee Court of Appeals, Middle Section, was presented to Mr. Justice Stewart as Circuit Justice on February 16, 1978, and referred by him to the Conference. Whereupon the Court requested the State to file an expedited response to the application by noon, February 21, 1978. The response was received in due course and a special conference was called to consider the matter.

It is hereby ordered that the application is denied.



The Chief Justice and Mr. Justice Blackmun dissent and would grant the stay.

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

CHAMBERS OF
JUSTICE POTTER STEWART

February 18, 1978

MEMORANDUM TO THE CONFERENCE

Enclosed herewith are copies of my law clerk's memorandum on the application for a stay we discussed at Conference yesterday.

Sincerely,

A handwritten signature in black ink, appearing to read "P. S." followed by a diagonal line.

IN RE MARY C. NORTHERN, No. A-695

APPLICATION FOR STAY OF JUDGMENT PENDING CERTIORARI

The applicant is a 72-year-old woman who resides in Nashville. On January 17, 1978, she was taken from her house to the hospital by police because she had frostbitten feet. She refused any surgical treatment and developed gangrene. On January 24, the Tennessee Dept. of Human Services filed a petition in Chancery Court pursuant to T.C.A. § 14-2306(a) seeking to have the Dept. made responsible for her medical treatment.

Section 14-2306(a) provides that "[i]f the department determines that an elderly person [one over 60 years of age] who is in need of protective services [defined as not being able to perform or obtain for himself services necessary to physical and mental health] is in imminent danger of death if he does not receive protective services and lacks capacity to consent to protective services," the Dept. can obtain an ex parte order "authorizing the provision of protective services necessary to prevent imminent death." A hearing on notice to the patient, who then has the right to appointed counsel, must be held within 5 days thereafter.

Supreme Court of the United States

Washington, D. C. 20543

MS.
CHAMBERS OF
JUSTICE POTTER STEWART

February 21, 1978

MEMORANDUM TO THE CONFERENCE

Please telephone my office before 5:00 p.m. today if you are opposed to this Order being entered at that time. Thanks.

Q.S.
P.S.

TUESDAY, FEBRUARY 21, 1978

ORDER IN PENDING CASE

NO. A-695 IN THE MATTER OF MARY C. NORTHERN

Upon consideration of the application for a stay of the mandate of the Tennessee Court of Appeals, Middle Section, presented to Mr. Justice Stewart and by him referred to the Court, and of the papers submitted in opposition thereto,

It is hereby ordered that the application is denied.

The Chief Justice and Mr. Justice Blackmun dissent.