

# The Burger Court Opinion Writing Database

## *United States v. California*

439 U.S. 30 (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

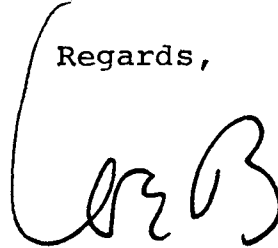
November 14, 1978

Re: No. 5 Original - U.S. v. California

Dear Potter:

I join.

Regards,

A handwritten signature in dark ink, appearing to be "LFB", enclosed within a large, sweeping left-facing bracket.

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
THE CHIEF JUSTICE

November 28, 1978

Re: No. 5 Orig. (O.T. 1950)  
New Jersey v. New York

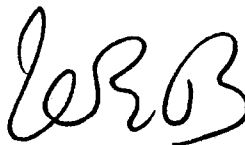
MEMORANDUM TO THE CONFERENCE:

As was true in 1976 when the River Master under our decree in this case, 347 U.S. 995, 1002, wrote the Court raising potential problems, I do not believe any action by the Court is presently necessary.

I propose to instruct the Clerk to inform the River Master to send copies of this and all future correspondence with the Court to the parties and to the SG. Presumably if the Master then raises an issue requiring our action, we will be made so aware by responses from his correspondents.

Unless someone wishes to put the matter down for discussion at the December 1 Conference, I will proceed.

Regards,

A handwritten signature in dark ink, appearing to be the initials 'LRB' in a stylized, cursive script.

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

November 14, 1978

*[Handwritten signature]*

RE: No. 5 Orig. United States v. California

Dear Potter:

I agree.

Sincerely,

*Bill*

Mr. Justice Stewart

cc: The Conference

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 5, Orig.

United States, Plaintiff,  
v.  
State of California.

On Motion for Entry of a Third Supplemental Decree.

[November —, 1978]

THIRD SUPPLEMENTAL DECREE

To carry into effect this Court's decision of May 15, 1978, 436 U. S. 32, and for the purpose of identifying with greater particularity parts of the boundary line, as defined by the Supplemental Decree herein of January 31, 1966, 382 U. S. 448, and by the Second Supplemental Decree herein of June 13, 1977, 432 U. S. 40, between the submerged lands of the United States and the submerged lands of the State of California, it is ORDERED, ADJUDGED AND DECREED that this Court's Supplemental Decree/ be, and the same is hereby, further supplemented as follows:

1. The United States has no right, title or interest by virtue of the claim-of-right exception of § 5 of the Submerged Lands Act, 67 Stat. 32, 43 U. S. C. § 1313, in the tidelands (that is, lands lying between the lines of mean high water and mean lower low water) and submerged lands (that is, lands lying seaward of the line of mean lower low water) within the Channel Islands National Monument, as said Monument was established by Presidential Proclamation No. 2281, 52 Stat. 1541 (Apr. 26, 1938), and enlarged by Presidential Proclamation No. 2825, 63 Stat. 1258 (Feb. 9, 1949), to encompass "the areas within one nautical mile of the shoreline of Anacapa and Santa Barbara Islands. . . ." In all other respects, the terms of the Supplemental Decree and of the Second Supplemental Decree apply fully to the tidelands and submerged lands within the Channel Islands National Monument.

# SUPREME COURT OF THE UNITED STATES

No. 5, Orig.

United States, Plaintiff,	}	On Motion for Entry of a Third Supplemental Decree.
v.		
State of California.		

[November 27, 1978]

## THIRD SUPPLEMENTAL DECREE

To carry into effect this Court's decision of May 15, 1978, 436 U. S. 32, and for the purpose of identifying with greater particularity parts of the boundary line, as defined by the Supplemental Decree herein of January 31, 1966, 382 U. S. 448, and by the Second Supplemental Decree herein of June 13, 1977, 432 U. S. 40, between the submerged lands of the United States and the submerged lands of the State of California, it is ORDERED, ADJUDGED AND DECREED that this Court's Supplemental Decree be, and the same is hereby, further supplemented as follows:

1. The United States has no right, title or interest by virtue of the claim-of-right exception of § 5 of the Submerged Lands Act, 67 Stat. 32, 43 U. S. C. § 1313, in the tidelands (that is, lands lying between the lines of mean high water and mean lower low water) and submerged lands (that is, lands lying seaward of the line of mean lower low water) within the Channel Islands National Monument, as said Monument was established by Presidential Proclamation No. 2281, 52 Stat. 1541 (Apr. 26, 1938), and enlarged by Presidential Proclamation No. 2825, 63 Stat. 1258 (Feb. 9, 1949), to encompass "the areas within one nautical mile of the shoreline of Anacapa and Santa Barbara Islands. . . ." In all other respects, the terms of the Supplemental Decree and of the Second Supplemental Decree apply fully to the tidelands and submerged lands within the Channel Islands National Monument.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

November 14, 1978

MEMORANDUM TO THE CONFERENCE

Re: No. 5 Original, U.S. v. California

The language of the enclosed proposed Decree embodies Marc Richman's suggestions that we approved at our last Conference. If you agree, I recommend that the Decree be entered. The case will be on the next Conference List for any necessary discussion.

78,  
1.  
P.S.

MM

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

November 14, 1978

Re: No. 5, Orig. - United States v.  
California

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Dear Potter,

I agree.

Sincerely yours,

B

Mr. Justice Stewart

Copies to the Conference



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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

November 16, 1978

Re: No. 5 Orig. - United States v. California

Dear Potter:

Please mark me as not participating.

Sincerely,

*Jm.*  
T.M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

November 14, 1978

Re: No. 5 Orig. - United States v. California

Dear Potter:

The proposed third supplemental decree has my approval. I must confess, however, that I have no idea what "lower low water" means, as the phrase is twice used in paragraph 1. If, however, this is acceptable to the parties, who am I to raise a question about it.

Sincerely,



Mr. Justice Stewart:

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

November 15, 1978

No. 5 Orig. U.S. v. California

Dear Potter:

I agree with your proposed Decree.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lewis".

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

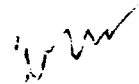
November 15, 1978

Re: No. 5 Orig. United States v. California

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

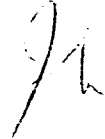
November 14, 1978

RE: No. 5 Original - U.S. v. California

Dear Potter:

The form of the Decree is acceptable  
to me.

Respectfully,



Mr. Justice Stewart

Copies to the Conference