

The Burger Court Opinion Writing Database

Givhan v. Western Line Consolidated School District

439 U.S. 410 (1979)

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 2, 1979

Re: 77-1051 - Givhan v. Western Line Consolidated School
District

Dear Bill:

I join.

Regards,

WRB

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

March 5, 1979

RE: 77-1051 - Givhan v. Western Line Consolidated
School District

Dear Bill:

I concur.

Regards,



Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

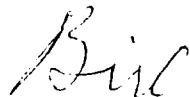
December 19, 1978

RE: No. 77-1051 Givhan v. Western Line Consolidated
School District

Dear Bill:

I agree with the Per Curiam you have prepared in
the above.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 6, 1979

RE: No. 77-1051 Givhan v. Western Line Consolidated
School District

Dear Bill:

I agree.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 19, 1978

Re: No. 77-1051 - Givhan v. Western Line Consolidated
School District

Dear Bill:

I agree. Shouldn't this be a signed opinion?

Sincerely yours,

P.S.

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 20, 1978

Re: No. 77-1051 - Givhan v. Western Line
Consolidated School District

Dear Bill,

I agree.

Sincerely yours,

Mr. Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 21, 1978

Re: No. 77-1051 - Givhan v. Western Line
Consolidated School District

Dear Bill:

I agree with your Per Curiam.

Sincerely,

JM.
T.M.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 5, 1979

Re: 77-1051 - Givhan v. Western Line Consolidated
School District

Dear Bill:

I have no objections to your modification of
the opinion.

Sincerely,

T.M.

T.M.

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 21, 1978

Re: No. 77-1051 - Givhan v. Western Line Consolidated
School District

Dear Bill:

I go along.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 5, 1979

Re: No. 77-1051 - Givhan v. Western Line Consolidated
School District

Dear Bill:

Your proposed modification has my approval.

Sincerely,

Harry

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 21, 1978

No. 77-1051 Givhan v. Western Line Cons. Sch. Dist.

Dear Bill:

Please join me in your Per Curiam.

I also join Potter in asking why this shouldn't be a signed opinion.

Sincerely,



Mr. Justice Rehnquist

Copies to the Conference

LFP/lab

Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackman
Mr. Justice Powell
Mr. Justice Stevens

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1051

Bessie B. Givhan, Petitioner,
v.
Western Line Consolidated
School District et al. | On Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit.

[January —, 1979]

PER CURIAM.

Petitioner Bessie Givhan was dismissed from her employment as a junior high English teacher at the end of the 1970-1971 school year.¹ At the time of petitioner's termination, respondent Western Line Consolidated School District was the subject of a desegregation order entered by the United States District Court for the Northern District of Mississippi. Petitioner filed a complaint in intervention in the desegregation action, seeking reinstatement on the dual grounds that nonrenewal of her contract violated the rule laid down by the Court of Appeals for the Fifth Circuit in *Singleton v. Jackson Municipal Separate School District*, 419 F. 2d 1211 (CA5 1969), rev'd and remanded *sub nom. Carter v. West Feliciana Parish School Board*, 396 U. S. 290 (1970), on remand, 425 F. 2d 1211 (CA5 1970), and infringed her right of free speech secured by the First and Fourteenth Amendments of the United States Constitution. In an effort to show that

¹ In a letter to petitioner dated July 23, 1971, District Superintendent C. L. Morris gave the following reasons for the decision not to renew her contract:

"(1) [A] flat refusal to administer standardized National tests to the pupils in your charge; (2) an announced intention not to cooperate with the administration of the Glen Allan Attendance Center; (3) and an antagonistic and hostile attitude to the administration of the Glen Allan Attendance Center demonstrated throughout the school year."

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Black
Mr. Justice White
Mr. Justice Powell
Mr. Justice Rehnquist

B.P. 445

2nd DRAFT

1/3/79

SUPREME COURT OF THE UNITED STATES

No. 77-1051

Bessie B. Givhan, Petitioner,
v.
Western Line Consolidated
School District et al. } On Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit.

[January —, 1979]

PER CURIAM.

Petitioner Bessie Givhan was dismissed from her employment as a junior high English teacher at the end of the 1970-1971 school year.¹ At the time of petitioner's termination, respondent Western Line Consolidated School District was the subject of a desegregation order entered by the United States District Court for the Northern District of Mississippi. Petitioner filed a complaint in intervention in the desegregation action, seeking reinstatement on the dual grounds that nonrenewal of her contract violated the rule laid down by the Court of Appeals for the Fifth Circuit in *Singleton v. Jackson Municipal Separate School District*, 419 F. 2d 1211 (CA5 1969), rev'd and remanded *sub nom. Carter v. West Feliciana Parish School Board*, 396 U. S. 290 (1970), on remand, 425 F. 2d 1211 (CA5 1970), and infringed her right of free speech secured by the First and Fourteenth Amendments

¹ In a letter to petitioner dated July 23, 1971, District Superintendent C. L. Morris gave the following reasons for the decision not to renew her contract:

"(1) [A] flat refusal to administer standardized National tests to the pupils in your charge; (2) an announced intention not to cooperate with the administration of the Glen Allan Attendance Center; (3) and an antagonistic and hostile attitude to the administration of the Glen Allan Attendance Center demonstrated throughout the school year."

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 5, 1979

MEMORANDUM TO THE CONFERENCE

Re: No. 77-1051 Givhan v. Western Line Consolidated School District

In the above-styled case, we held that a public employee does not forfeit his First Amendment rights when he arranges to communicate privately with his employer rather than to express his views publicly. The final sentence of the Court's opinion reads: "Accordingly, the judgment of the Court of Appeals is vacated and the case remanded for further proceedings consistent with this opinion."

In a "Motion To Correct Opinion," counsel for petitioner Givhan correctly points out that the Court of Appeals' decision dealt not only with petitioner Givhan's First Amendment claim, but also with the unrelated claims of one Ms. Hodges, who did not seek review in this Court. Thus, absent dissent, I propose to modify the last sentence of the Court's opinion as follows: "Accordingly, the judgment of the Court of Appeals' is vacated insofar as it relates to petitioner, and the case is remanded for further proceedings consistent with this opinion."

Sincerely,



Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

From: Mr. Justice Stevens
JAN 3 1978
Circulated: _____

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 77-1051

Bessie B. Givhan, Petitioner,
v.
Western Line Consolidated
School District et al. } On Writ of Certiorari to the
United States Court of Ap-
peals for the Fifth Circuit.

[January —, 1979]

MR. JUSTICE STEVENS, concurring.

Because this Court's opinion in *Mt. Healthy City School District v. Doyle*, 429 U. S. 274, had not been announced when the District Court decided this case, it did not expressly find that respondents would have rehired petitioner if she had not engaged in constitutionally protected conduct. The District Court did find, however, that petitioner's protected conduct was the "primary" reason for respondents' decision.* The Court of Appeals regarded that finding as foreclosing respondents' *Mt. Healthy* claim. In essence, the Court of Appeals concluded that the District Court would have made an appropriate finding on the issue if it had had access to our *Mt. Healthy* opinion.

My understanding of the District Court's finding is the same as the Court of Appeals'. Nevertheless, I agree that the District Court should have the opportunity to decide whether there is any need for further proceedings on the issue. If that court regards the present record as adequate to enable it to supplement its original findings without taking additional evidence, it is free to do so. On that understanding, I join the Court's opinion.

*Pet. for Cert. 35A. See also *id.*, at 36A, where the District Court stated that petitioner's protected activity was "almost entirely" responsible for her termination.

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 5, 1979

Re: 77-1051 - Givhan v. Western Line
Consolidated School District

Dear Bill:

Although I do not dissent from your proposal,
I think the change is unnecessary.

Respectfully,



Mr. Justice Rehnquist

Copies to the Conference