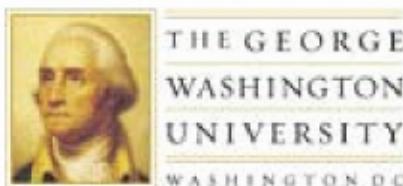


The Burger Court Opinion Writing Database

Addington v. Texas
441 U.S. 418 (1979)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



To: Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: The Chief Justice

Circulated: APR 12 1979

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 77-5992

Frank O'Neal Addington,
 Appellant,
 v.
 State of Texas. } On Appeal from the Supreme
 Court of Texas.

[April —, 1979]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

We noted probable jurisdiction of this appeal to determine what standard of proof is required by the Fourteenth Amendment to the Constitution in a civil proceeding brought under state law to commit an individual involuntarily for an indefinite period to a state mental hospital.

I

On seven occasions between 1969 and 1975 appellant was committed temporarily, Texas Mental Health Code Ann., Art. 5547-31-39 (Vernon), to various Texas state mental hospitals and was committed for indefinite periods, *id.*, at 5547-40-57, to Austin State Hospital on three different occasions. On December 18, 1975, when appellant was arrested on a misdemeanor charge of "assault by threat" against his mother, the county and state mental health authorities therefore were well aware of his history of mental and emotional difficulties.

Appellant's mother filed a petition for his indefinite commitment in accordance with Texas law. The county psychiatric examiner interviewed appellant while in custody and after the interview issued a Certificate of Medical Examination for Mental Illness. In the Certificate, the examiner stated his opinion that appellant was "mentally ill and re-

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

CHAMBERS OF
THE CHIEF JUSTICE

April 18, 1979

Re: 77-5992 - Addington v. Texas

Dear Harry:

Good catch. The point slipped by us at the initial Conference, the final Conference, and at oral argument. Perhaps the solution, procedurally, is to construe the appeal as a cert and proceed from there. The Court has done this before.

Cordially,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

April 19, 1979

Re: 77-5992 - Addington v. Texas

Dear Bill:

Thank you for your join memo. The standard in the final paragraph was just one of those slips of phrase which we had caught and changed on the final draft with several other non-substantive changes.

Regards,

WB

Mr. Justice Brennan

Copies to the Conference

1, 4-9-14

To: Mr. Justice ~~Scalia~~
 Mr. Justice ~~Souter~~
 Mr. Justice White
 Mr. Justice ~~Martinez~~
 Mr. Justice ~~Blackmun~~
 Mr. Justice Powell
 Mr. Justice ~~Rosenquist~~
 Mr. Justice ~~Stevens~~

From: The Chief Justice

Circulated: _____

Recirculated: APR 20 1979

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-5992

Frank O'Neal Addington,
 Appellant,
 v.
 State of Texas. } On Appeal from the Supreme
 Court of Texas.

[April —, 1979]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

The question in this case is what standard of proof is required by the Fourteenth Amendment to the Constitution in a civil proceeding brought under state law to commit an individual involuntarily for an indefinite period to a state mental hospital.

I

On seven occasions between 1969 and 1975 appellant was committed temporarily, Texas Mental Health Code Ann., Art. 5547-31-39 (Vernon), to various Texas state mental hospitals and was committed for indefinite periods, *id.*, at 5547-40-57, to Austin State Hospital on three different occasions. On December 18, 1975, when appellant was arrested on a misdemeanor charge of "assault by threat" against his mother, the county and state mental health authorities therefore were well aware of his history of mental and emotional difficulties.

Appellant's mother filed a petition for his indefinite commitment in accordance with Texas law. The county psychiatric examiner interviewed appellant while in custody and after the interview issued a Certificate of Medical Examination for Mental Illness. In the Certificate, the examiner stated his opinion that appellant was "mentally ill and re-

STYLISTIC CHANGES

To: Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

4, 7, 8, 14

From: The Chief Justice

Circulated: _____

3rd DRAFTRecirculated: APR 27 1979**SUPREME COURT OF THE UNITED STATES**

No. 77-5992

Frank O'Neal Addington,
 Appellant,
 v.
 State of Texas.

On Appeal from the Supreme
 Court of Texas.

[April —, 1979]

MR. CHIEF JUSTICE BURGER delivered the opinion of the Court.

The question in this case is what standard of proof is required by the Fourteenth Amendment to the Constitution in a civil proceeding brought under state law to commit an individual involuntarily for an indefinite period to a state mental hospital.

I

On seven occasions between 1969 and 1975 appellant was committed temporarily, Texas Mental Health Code Ann., Art. 5547-31-39 (Vernon), to various Texas state mental hospitals and was committed for indefinite periods, *id.*, at 5547-40-57, to Austin State Hospital on three different occasions. On December 18, 1975, when appellant was arrested on a misdemeanor charge of "assault by threat" against his mother, the county and state mental health authorities therefore were well aware of his history of mental and emotional difficulties.

Appellant's mother filed a petition for his indefinite commitment in accordance with Texas law. The county psychiatric examiner interviewed appellant while in custody and after the interview issued a Certificate of Medical Examination for Mental Illness. In the Certificate, the examiner stated his opinion that appellant was "mentally ill and re-

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

CHAMBERS OF
THE CHIEF JUSTICE

May 9, 1979

Re: Case Held for No. 77-5992 - Addington v. Texas

MEMORANDUM TO THE CONFERENCE:

The only case is No. 77-6443 - Kraemer v. Mental Health Board of Nebraska. (I WILL VOTE: DENY)

1. FACTS: Petr was civilly committed indefinitely to a state mental hospital by the Mental Health Board under the Nebraska Mental Health Commitment Act. He appealed the Board's decision on several constitutional grounds. He argued that the testimony of two psychiatrists was improperly admitted because he had not received Miranda-type warnings prior to his interviews with them. He also argued that the state statute permitting commitment based on "clear and convincing evidence" violated due process because proof beyond a reasonable doubt should be required.

2. HOLDING BELOW: The Nebraska Supreme Court rejected these arguments. On the self-incrimination issue, the Court held that the proceeding was not criminal and thus the privilege was not violated. The Court also noted that to impose a Miranda requirement would destroy the state's ability to use psychiatric testimony in civil commitments. The Court also held that the clear and convincing standard satisfied due process.

3. DISCUSSION: Under Addington the Nebraska Supreme Court's decision on the burden of proof was totally correct. There would be no reason to remand the case on that issue.

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 19, 1979

RE: No. 77-5992 Addington v. Texas

Dear Chief:

Although we differed at Conference I now agree. May I make one suggestion. In your next to the last sentence concerning the holding you state that the Texas Court is free to adopt a more burdensome test than "a preponderance of the evidence." Since the holding is that the constitutional minimum is clear and convincing, should not the sentence read:

"That instruction was constitutionally adequate, however, the precise burden greater than or equal to the clear and convincing evidence standard necessitated by due process that the Texas Supreme Court may choose to require is a matter of state law which we leave to that Court."

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

April 20, 1979

Re: No. 77-5992, Addington v. Texas

Dear Chief,

I am glad to join your opinion for
the Court, as recirculated today.

Sincerely yours,

P.S.,
P.

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 13, 1979

Re: 77-5992 - Addington v. State of Texas

Dear Chief,

Please join me.

Sincerely yours,



The Chief Justice
Copies to the Conference
cmc

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 19, 1979

Re: No. 77-5992 - Addington v. State of Texas

Dear Chief:

Please join me.

Sincerely,

JM
T.M.

The Chief Justice

cc: The Conference

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

From: Mr. Justice Blackmun

Circulated: 17 APR 1979

Recirculated: _____

No. 77-5992 - Addington v. Texas

MR. JUSTICE BLACKMUN, concurring in the judgment.

I concur in the result and join the judgment of the Court. I do not join the Court's opinion because:

1. I do not participate in the Court's noting of probable jurisdiction in this case. Of course, the Court has jurisdiction to review the case by a grant of certiorari under 28 U.S.C. § 1257(3). But in order to have appellate jurisdiction here under 28 U.S.C. § 1257(2), which the Court appears to assert, a Texas statute must have been upheld by

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 18, 1979

Re: No. 77-5992 - Addington v. Texas

Dear Chief:

Your records will show that I voted to postpone jurisdiction.

Sincerely,

Harry

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

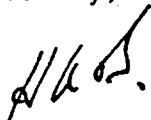
April 23, 1979

Re: No. 77-5992 - Addington v. Texas

Dear Chief:

Your recirculation of April 20 dispels most of my concern. Therefore, please join me. My tentative concurrence will not go to the Printer.

Sincerely,



—

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 14, 1979

77-5992 Addington v. Texas

Dear Chief:

Please show on the next draft of your opinion that I took no part in the decision of this case.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 19, 1979

Re: No. 77-5992 - Addington v. Texas

Dear Chief:

Although I believe I voted at Conference to say that a "preponderance of the evidence" standard was constitutionally permissible, I am sufficiently persuaded by your opinion so that I could join in its holding that a "clear and convincing" standard was required. I also find myself, however, substantially in agreement with most of Harry's statements made in his concurrence in the judgment. Since you have indicated some willingness to take Harry's comments into consideration in any recirculation, I shall for the present withhold my vote.

Sincerely,

W

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 23, 1979

Re: No. 77-5992 - Addington v. Texas

Dear Chief:

Please join me in your recirculation of April 20th.

Sincerely,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 16, 1979

Re: 77-5992 - Addington v. Texas

Dear Chief:

Although I voted in favor of the standard of proof beyond a reasonable doubt at Conference, after reading your persuasive opinion I have given the problem further thought and am now convinced that your approach is the better one.

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference