

# The Burger Court Opinion Writing Database

## *California v. Arizona*

440 U.S. 59 (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

February 14, 1979

Dear Potter:

Re: No. 78 Original State of California v.  
State of Arizona and the U.S.

I join.

Regards,

CRB

cc: The Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

January 30, 1979

RE: No. 78 Orig. California v. Arizona

Dear Potter:

I agree.

Sincerely,

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

Mr. Justice Stewart

cc: The Conference

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

From: Mr. Justice Stewart  
 29 JAN 1979

Circulated: \_\_\_\_\_

1st DRAFT

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# SUPREME COURT OF THE UNITED STATES

No. 78, Orig.

State of California, Plaintiff,	} On Motion for Leave to File a
v.	
State of Arizona and the	
United States.	
Bill of Complaint.	

[February —, 1979]

MR. JUSTICE STEWART delivered the opinion of the Court.

Since the admission of California to the Union in 1850, the southeastern boundary of the State has been the middle of the channel of the Colorado River. Act of September 8, 1850, 9 Stat. 452 (1850). Neither the Gadsen Purchase in 1853 nor the admission of Arizona to statehood in 1912 changed the location of this 229-mile border. The location of the river did change, however, from causes both natural and artificial. These shifts created confusion about the location of the political boundary between California and Arizona. This problem was resolved through an interstate compact, ratified by the Congress in 1966. Interstate Boundary Compact Defining the Boundary Between the States of Arizona and California, Pub. L. 89-531, 80 Stat. 340. The Compact fixed the boundary by stations of longitude and latitude, divorced from the continuing shifts of the Colorado River.

California has taken the position, however, that the Compact settled only questions of political jurisdiction, not questions of ownership of real property, since, under the "equal footing doctrine," California holds title to all lands beneath the navigable waters within its boundaries at the time of its admission to the Union. *Pollard's Lessee v. Hagan*, 3 How. 212, 219. See *Oregon ex rel. State Land Bd. v.*

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

From: Mr. Justice Stewart

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2nd DRAFT

# SUPREME COURT OF THE UNITED STATES

No. 78, Orig.

State of California, Plaintiff,	}	On Motion for Leave to File a Bill of Complaint.
v.		
State of Arizona and the		
United States.		

[February —, 1979]

MR. JUSTICE STEWART delivered the opinion of the Court.

Since the admission of California to the Union in 1850, the southeastern boundary of the State has been the middle of the channel of the Colorado River. Act of September 8, 1850, 9 Stat. 452 (1850). Neither the Gadsen Purchase in 1853 nor the admission of Arizona to statehood in 1912 changed the location of this 229-mile border. The location of the river did change, however, from causes both natural and artificial. These shifts created confusion about the location of the political boundary between California and Arizona. This problem was resolved through an interstate compact, ratified by the Congress in 1966. Interstate Boundary Compact Defining the Boundary Between the States of Arizona and California, Pub. L. 89-531, 80 Stat. 340. The Compact fixed the boundary by stations of longitude and latitude, divorced from the continuing shifts of the Colorado River.

California has taken the position, however, that the Compact settled only questions of political jurisdiction, not questions of ownership of real property, since, under the "equal footing doctrine." California holds title to all lands beneath the navigable waters within its boundaries at the time of its admission to the Union. *Pollard's Lessee v. Hagan*, 3 How. 212, 219. See *Oregon ex rel. State Land Bd. v.*

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

From: Mr. Justice Stewart

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Recirculated: 9 FEB 1979

3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 78, Orig.

State of California, Plaintiff,	} On Motion for Leave to File a
v.	
State of Arizona and the United States.	
Bill of Complaint.	

[February —, 1979]

MR. JUSTICE STEWART delivered the opinion of the Court.

Since the admission of California to the Union in 1850, the southeastern boundary of the State has been the middle of the channel of the Colorado River. Act of September 8, 1850, 9 Stat. 452 (1850). Neither the Gadsen Purchase in 1853 nor the admission of Arizona to statehood in 1912 changed the location of this 229-mile border. The location of the river did change, however, from causes both natural and artificial. These shifts created confusion about the location of the political boundary between California and Arizona. This problem was resolved through an interstate compact, ratified by the Congress in 1966.<sup>1</sup> The Compact fixed the boundary by stations of longitude and latitude, divorced from the continuing shifts of the Colorado River.

California has taken the position, however, that the Compact settled only questions of political jurisdiction, not questions of ownership of real property, since, under the "equal footing doctrine." California holds title to all lands beneath the navigable waters within its boundaries at the time of its admission to the Union. *Pollard's Lessee v. Hagan*, 3 How. 212, 219. See *Oregon ex rel. State Land Bd. v.*

<sup>1</sup> Interstate Boundary Compact Defining the Boundary Between the States of Arizona and California, Pub. L. 89-531; 80 Stat. 340.

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 31, 1979

Re: 78 Orig. - California v.  
Arizona and U.S.

Dear Potter,

I agree.

Sincerely yours,

A handwritten signature in cursive script, appearing to be 'Byron' or 'B. White', written in dark ink.

Mr. Justice Stewart

Copies to the Conference

cmc

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

January 30, 1979

Re: No. 78, Orig. - California v. Arizona

Dear Potter:

Please join me.

Sincerely,

*TM.*

T.M.

Mr. Justice Stewart

cc: The Conference



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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

January 30, 1979

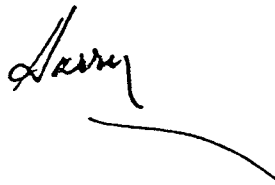
Re: No. 78 Orig. - California v. Arizona and United States

Dear Potter:

Please join me.

I am often unsure as to procedures in these original cases. The opinion as presently drawn merely grants leave to file the complaint. Should it also incorporate the usual material that our orders contain setting up a schedule date for the filing of answers and the like? I suppose when the other pleadings come in it will then be the time to appoint a special master.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 12, 1979

78 Orig. California v. Arizona

Dear Potter:

Please join me.

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

February 12, 1979

Re: No. 78, Orig. - California v. Arizona & United States

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

January 29, 1979

Re: 78 Original - California v. Arizona

Dear Potter:

Please join me.

Respectfully,



Mr. Justice Stewart

Copies to the Conference