

# The Burger Court Opinion Writing Database

*Estes v. Metropolitan Branches of Dallas NAACP*

444 U.S. 437 (1980)

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 2, 1979

Re: (78-253 - Estes v. Metropolitan Branches of Dallas NAACP  
(  
(78-282 - Curry v. Metropolitan Branches of Dallas NAACP  
(  
(78-283 - Brinegar v. Metropolitan Branches of Dallas NAACP)

MEMORANDUM TO THE CONFERENCE:

Since Lewis has a strong desire to write his views, I will change my vote to affirm, making 5-3 to affirm (as of now!)

Regards,

WSB

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

CHAMBERS OF  
THE CHIEF JUSTICE

January 18, 1980

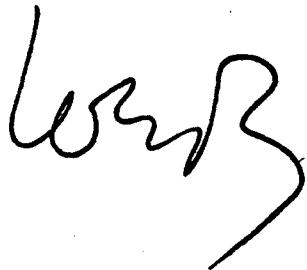
Re: (78-253 - Estes v. Metropolitan Branches of Dallas  
  { NAACP  
(78-282 - Curry v. Metropolitan Branches of Dallas  
  { NAACP  
(78-283 - Brinegar v. Metropolitan Branches of Dallas  
  { NAACP

MEMORANDUM TO THE CONFERENCE:

Enclosed is the order for dismissal of the petition  
as improvidently granted.

This will be on Monday's Order List with dissents.

Regards,



cc: Mr. Cornio

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: Jan 18 1980

Recirculated: \_\_\_\_\_

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 78-253, 78-282, AND 78-283

Nolan Estes et al., Petitioners,  
78-253 v.

Metropolitan Branches of  
Dallas NAACP et al.

Donald E. Curry et al.,  
Petitioners,  
78-282 v.

Metropolitan Branches of  
Dallas NAACP et al.

Ralph F. Brinegar et al.,  
Petitioners,  
78-283 v.

Metropolitan Branches of  
Dallas NAACP et al.

On Writs of Certiorari to the  
United States Court of Ap-  
peals for the Fifth Circuit.

[January —, 1980]

PER CURIAM.

The writs of certiorari are dismissed as improvidently granted.

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

CHAMBERS OF  
THE CHIEF JUSTICE

January 18, 1980

RE: (78-253 - Estes v. Metropolitan Branches of Dallas  
      (       NAACP  
      (         
(78-282 - Curry v. Metropolitan Branches of Dallas  
      (       NAACP  
      (         
(78-283 - Brinegar v. Metropolitan Branches of Dallas  
      (       NAACP

MEMORANDUM TO THE CONFERENCE:

This was inadvertently described as an order list item.  
It will come down as any other per curiam on an argued case  
and will be announced on Monday.

Regards,

WEB

cc: Mr. Cornio, Printer

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

CHAMBERS OF  
JUSTICE POTTER STEWART

January 16, 1980

Re: Nos. 78-253, 78-282, and 78-283,  
Estes v. Metropolitan Branch, Dallas NAACP

Dear Lewis,

Please add my name to your dissenting  
opinion.

Sincerely yours,

?S.  
i

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

January 17, 1980

Re: No. 78-253)  
No. 78-282) - Dallas School cases  
No. 78-283)

Dear Chief:

I believe that no two-line disposition as a DIG has been circulated in print as yet. In any event, I adhere to my vote to DIG.

Sincerely,  
*H. A. B.*

The Chief Justice  
cc: The Conference

October 29, 1979

Dallas School Case 78-253

Dear Chief:

Although I well understand that none of us necessarily "tips his hand" by what we say during oral argument, I was a little concerned by indications that you may think it desirable to remand this case to the District Court as was done by CA5.

For the reasons that I hinted at in several of my questions, I think we should reinstate the judgment and desegregation decree of the District Court. After nearly a quarter of a century, we should allow the school authorities to resume basic responsibility for public education - especially where, as here, the District Court (familiar with local conditions) has provided a framework that he found on the basis of experience would be more effective than increased transportation of pupils.

Moreover, I am impressed by the fact that the Dallas community, through the Educational Task Force of the Dallas Alliance, played a constructive role in the development of the District Court's plan, and also has marshaled community support behind it.

There are too many briefs in this case, and many of them are too long. If you have not had the opportunity to do so, I strongly recommend the amicus brief filed on behalf of the Dallas Alliance. It is relatively short, and makes more sense than almost any brief I have seen filed in a desegregation case. It is illuminating, also, to take a look at the list of "correspondent organizations" that compose the Dallas Alliance (see appendix to brief 16a). I think you will find pages 24-26 of this amicus brief quite heartening.

I conclude with one comment that bears on a point you and I have discussed several times: the misunderstanding, almost inexplicably so, by lower federal courts of some of our decisions. This case gives us an opportunity to send a message, especially to my Fifth Circuit, that we have mandated neither racial balance nor extensive busing.

On the basis of my reading of CA5 opinions, I believe that Circuit agrees with what NAACP counsel said today during oral argument: that it is basically irrelevant whether a desegregation plan assures a greater degree of segregation than would exist without the plan. In short, the Constitution is said to require a wholly self defeating remedy wherever "vestiges" (whatever this means) of de jure segregation remain.

This is the tortured road to a return to "separate but equal" schools!

Sincerely,

The Chief Justice

lfp/ss

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

November 6, 1979

78-253 Estes v. Metropolitan Branches  
78-282 Curry v. Metropolitan Branches  
78-283 Brinegar v. Metropolitan Branches

MEMORANDUM TO THE CONFERENCE:

In due time, I will circulate a dissent from the decision to dismiss the above cases as improvidently granted.

L.F.P.  
L.F.P., Jr.

ss

December 27, 1979

78-253, etc. Dallas School Case

Dear Potter and Bill:

Since you are my only constituency, I enclose a first draft of my dissent.

Although it conveys essentially the same message as my dissent from denial of cert last Term, I think I have improved the opinion substantially by rewriting.

I would welcome your comments before circulating this to other members of the Court.

Sincerely,

Mr. Justice Stewart  
Mr. Justice Rehnquist

lfp/ss

P.S. The enclosed article in yesterday's Post illustrates the total absurdity of the extremes to which the federal judiciary has gone in pursuing a remedy irrationally on a wholesale rather than on a carefully selective retail basis.

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

1-8-80

From: Mr. Justice Powell  
JAN 16 1980

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

Recirculated: \_\_\_\_\_

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 78-253, 78-282, AND 78-283

Nolan Estes et al., Petitioners,  
 78-253 v.

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Ralph F. Brinegar et al.,  
 Petitioners,  
 78-283 v.

Metropolitan Branches of  
 Dallas NAACP et al.

On Writs of Certiorari to the  
 United States Court of Appeals  
 for the Fifth Circuit.

[January —, 1980]

MR. JUSTICE POWELL, dissenting.

The Court today dismisses the writ previously granted in this case and thereby reinstates the ruling of the Court of Appeals. The case now will be returned to the District Court for elaboration of that court's conclusions on the feasibility of extensive busing to achieve racial balance in the Dallas public schools. The Court of Appeals directed the trial court to supplement the record with formal studies of the anticipated times and distances of likely bus routes, and to make additional findings on desegregation in the city's high schools.

Although the remand is narrow, aimed solely at the sufficiency of the record on which the District Court based its desegregation order, I do not think it is justified. After

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

January 16, 1980

Re: Nos. 78-253, 78-282, and 78-283 - Estes v.  
Metropolitan Branch, Dallas NAACP

Dear Lewis:

Please join me in your dissent.

Sincerely,



Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

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October 31, 1979

MEMORANDUM TO THE CONFERENCE

Re: 78-253, 78-282, and 78-283 - Estes et al.  
v. Metropolitan Branches of Dallas NAACP  
et al.

In reflecting upon our decision of this case this afternoon, it has occurred to me that if the case is not dismissed as improvidently granted, it will be affirmed by an equally divided Court. In view of that possibility, is it appropriate to invest substantial amount of work in the preparation of opinions?

Respectfully,

