

The Burger Court Opinion Writing Database

Secretary of Navy v. Huff
444 U.S. 453 (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

January 17, 1980

Re: 78-599 - Secretary of Navy v. Huff

Dear Lewis:

I join your January 15 Per Curiam.

Regards,

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

✓
January 17, 1980

Re: 78-599 - Secretary of Navy v. Huff

Dear Lewis:

I join your January 15 Per Curiam.

Regards,

WRB

Mr. Justice Powell

Copies to the Conference

P.S. I see no reason
why you should not
sign this one. The fact
of a dissent enters
into the choice.

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

December 20, 1979

RE: Nos. 78-599—Secretary of Navy v. Huff
78-1006 Brown v. Glines

Dear Lewis:

I shall in due course circulate a dissent
in these two cases.

Sincerely,



Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

December 19, 1979

Re: No. 78-599, Secretary of the Navy v. Huff
78-1006, Brown v. Glines

Dear Lewis,

In due course I plan to circulate a dissenting opinion in these two cases, based upon 10 U.S.C. § 1034.

Sincerely yours,

C. S.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 10, 1980

Re: 78-599 - Secretary of the Navy v. Huff

Dear Lewis:

I shall appreciate your adding the following at the foot of the per curiam opinion you have circulated:

Mr. Justice Stewart dissents. For the reasons stated in his dissenting opinion in Brown v. Glines, ante, he would affirm the judgment of the Court of Appeals in this case.

Sincerely yours,

P. S.
J.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

January 15, 1980

Re: No. 78-599, Secretary of the
Navy v. Huff

Dear Lewis,

John's proposed version of the statement to be appended at the foot of the opinion for the Court in this case is fine with me.

Sincerely yours,

P.S.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 21, 1979

Re: No. 78-599 - Secretary of the Navy
v. Frank L. Huff

Dear Lewis,

Please join me. And shouldn't this
be a signed opinion?

Sincerely yours,



Mr. Justice Powell

Copies to the Conference

Janc:
file copy

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 19, 1979

Re: No. 78-599 - Secretary of the Navy v. Huff

Dear Lewis:

Please show me as not participating in
this case.

Sincerely,

JM

T.M.

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 14, 1980

Re: No. 78-599 - Secretary of the Navy v. Huff

Dear Lewis:

Please join me in your per curiam.

Sincerely,

HAB.

Mr. Justice Powell

cc: The Conference

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

12-18-79

From: Mr. Justice Powell

Circulated: DEC 19 1979

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 78-599

Secretary of the Navy et al.,
 Petitioners,
 v.
 Frank L. Huff et al. } On Writ of Certiorari to the
 United States Court of Appeals for the District of Columbia Circuit.

[January —, 1980]

PER CURIAM.

The question in this case is whether Navy and Marine Corps regulations violate 10 U. S. C. § 1034 by requiring military personnel on an overseas base to obtain command approval before circulating petitions addressed to Members of Congress. Section 1034 provides that “[n]o person may restrict any member of the armed forces in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary for the security of the United States.”

I

In 1974, Frank L. Huff, Robert A. Falatine, and Robert E. Gabrielson were serving in the Marine Corps at the United States Marine Corps Air Station in Iwakuni, Japan. On separate occasions, each of them sought the base commander's permission to circulate a petition addressed to a Member of Congress. The petitions dealt with the use of military forces in labor disputes within the United States, amnesty for men who resisted the draft or deserted the Armed Forces during the Vietnam war, and United States support for the government of South Korea. The first two requests proposed circulation within the base; the last proposed circulation both within and without the base. The commander denied the

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

5

1-7-80

From: Mr. Justice Powell

Circulated: _____

Recirculated: 7-1980

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-599

Secretary of the Navy et al., | On Writ of Certiorari to the
 Petitioners, | United States Court of Ap-
 v. | peals for the District of Co-
 Frank L. Huff et al. | lumbia Circuit.

[January —, 1980]

PER CURIAM.

The question in this case is whether Navy and Marine Corps regulations violate 10 U. S. C. § 1034 by requiring military personnel on an overseas base to obtain command approval before circulating petitions addressed to Members of Congress. Section 1034 provides that “[n]o person may restrict any member of the armed forces in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary for the security of the United States.”

I

In 1974, Frank L. Huff, Robert A. Falatine, and Robert E. Gabrielson were serving in the Marine Corps at the United States Marine Corps Air Station in Iwakuni, Japan. On separate occasions, each of them sought the base commander's permission to circulate a petition addressed to a Member of Congress. The petitions dealt with the use of military forces in labor disputes within the United States, amnesty for men who resisted the draft or deserted the Armed Forces during the Vietnam war, and United States support for the government of South Korea. The first two requests proposed circulation within the base; the last proposed circulation both within and without the base. The commander denied the

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

1-15-80

From: Mr. Justice Powell

Circulated: _____

3rd DRAFT

Recirculated, JAN 15 1980

SUPREME COURT OF THE UNITED STATES

No. 78-599

Secretary of the Navy et al., | On Writ of Certiorari to the
Petitioners, | United States Court of Ap-
v. | peals for the District of Co-
Frank L. Huff et al. | lumbia Circuit.

[January —, 1980]

PER CURIAM.

The question in this case is whether Navy and Marine Corps regulations violate 10 U. S. C. § 1034 by requiring military personnel on an overseas base to obtain command approval before circulating petitions addressed to Members of Congress. Section 1034 provides that “[n]o person may restrict any member of the armed forces in communicating with a member of Congress, unless the communication is unlawful or violates a regulation necessary for the security of the United States.”

I

In 1974, Frank L. Huff, Robert A. Falatine, and Robert E. Gabrielson were serving in the Marine Corps at the United States Marine Corps Air Station in Iwakuni, Japan. On separate occasions, each of them sought the base commander's permission to circulate a petition addressed to a Member of Congress. The petitions dealt with the use of military forces in labor disputes within the United States, amnesty for men who resisted the draft or deserted the Armed Forces during the Vietnam war, and United States support for the government of South Korea. The first two requests proposed circulation within the base; the last proposed circulation both within and without the base. The commander denied the

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 20, 1979

Re: No. 78-599 - Secretary of the Navy v. Huff

Dear Lewis:

Please join me.

Sincerely,



Mr. Justice Powell

Copies to the Conference

Greg - Please do ✓ 1-16-80

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 14, 1980

Re: 78-599 - Secretary of the Navy
v. Huff

Dear Lewis:

If acceptable with Potter, perhaps you could modify his suggested statement at the foot of the per curiam opinion to read something like this:

"MR. JUSTICE STEWART and MR. JUSTICE STEVENS dissent. For the reasons stated in their dissenting opinions in Brown v. Glines, ante, they would affirm the judgment of the Court of Appeals in this case."

Respectfully,

JH

Mr. Justice Powell

cc: Mr. Justice Stewart