

The Burger Court Opinion Writing Database

Ball v. James

451 U.S. 355 (1981)

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

March 30, 1981

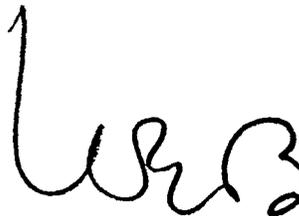
Re: No. 79-1740, Ball v. James

Dear Potter:

I join.

Regards,

Justice Stewart
Copies to the Conference

A handwritten signature in dark ink, appearing to be 'WRS', written in a cursive style. The signature is positioned to the right of the typed name 'Justice Stewart'.

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 10, 1981

RE: No. 79-1740 Ball v. James

Dear Byron:

Thurgood, Harry, you and I are in dissent
in the above. Would you be willing to take on
the dissent?

Sincerely,



Mr. Justice White

cc:

Mr. Justice Marshall
Mr. Justice Blackmun

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 25, 1981

RE: No. 79-1740 Ball v. James

Dear Potter:

I shall await the dissent.

Sincerely,

Bill

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

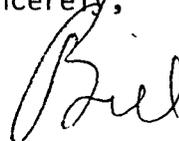
April 23, 1981

RE: No. 79-1740 Ball v. James

Dear Byron:

Please join me.

Sincerely,

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

Justice White

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

24 MAR 1981

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-1740

Germain H. Ball et al., Appellants, v. Roland W. James et al.	}	On Appeal from the United States Court of Appeals for the Ninth Circuit.
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[March —, 1981]

JUSTICE STEWART delivered the opinion of the Court.

This appeal concerns the constitutionality of the system for electing the directors of a large water reclamation district in Arizona, a system which, in essence, limits voting eligibility to landowners and apportions voting power according to the amount of land a voter owns. The case requires us to consider whether the peculiarly narrow function of this local governmental body and the special relationship of one class of citizens to that body releases it from the strict demands of the one-person-one-vote principle of the Equal Protection Clause of the Fourteenth Amendment.

I

The public entity at issue here is the Salt River Project Agricultural Improvement and Power District (District), which stores and delivers untreated water to the owners of land comprising 236,000 acres in Central Arizona.¹ The District, formed as a governmental entity in 1937, subsidizes its water operations by selling electricity, and has become the supplier of electric power for hundreds of thou-

¹ The review in this opinion of the history, organization, functions, and financing of the District is drawn from the Stipulation of Facts in the District Court.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 10, 1981

Re: No. 79-1740 Ball v. James

Dear Bill,

I shall be glad to undertake the
dissent in this case.

Sincerely yours,



Mr. Justice Brennan

cc: Mr. Justice Marshall
Mr. Justice Blackmun

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 26, 1981

Re: No. 79-1740 - Ball v. James

Dear Potter,

In due course, I shall circulate a
dissent in this case.

Sincerely yours,



Mr. Justice Stewart
Copies to the Conference
cm

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

From: Mr. Justice White

Circulated: 21 APR 1981

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 79-1740

Germain H. Ball et al., Appellants, v. Roland W. James et al.	}	On Appeal from the United States Court of Appeals for the Ninth Circuit.
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[April —, 1981]

JUSTICE WHITE, dissenting.

In concluding that the District's "one-acre, one-vote" scheme is constitutional, the Court misapplies the limited exception recognized in *Salyer* on the strained logic that the provision of water and electricity to several hundred thousand citizens is a "peculiarly narrow function." Because the Court misreads our prior cases and its opinion is conceptually unsound, I dissent.

I

The right to vote is of special importance because the franchise acts to preserve "other basic civil rights." *Reynolds v. Sims*, 377 U. S. 533, 562 (1964). It is presumed that "when all citizens are affected in important ways by a governmental decision," the Fourteenth Amendment "does not permit . . . the exclusion of otherwise qualified citizens from the franchise." *Phoenix v. Kolodziejcki*, 399 U. S. 204, 209 (1970). Any state statute granting the franchise to residents on a selective basis poses the "danger of denying some citizens any effective voice in the governmental affairs which substantially affect their lives." *Kramer v. Union Free School District No. 15*, 395 U. S. 621, 627 (1969).¹ See

¹ States, of course, have substantial latitude in structuring local government, and nonlegislative positions need not be elected at all. *Kramer v. Union Free School District No. 15*, 395 U. S. 621, 629 (1969). But once a State provides for elections, the Fourteenth Amendment requires that

TO: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Souter
Mr. Justice Ginsburg
Mr. Justice Breyer
Mr. Justice Alito
Mr. Justice Kagan
Mr. Justice Sotomayor
Mr. Justice Thomas
Mr. Justice Kennedy
Mr. Justice Scalia
Mr. Justice Roberts
Mr. Justice Chief Justice
Mr. Justice White

- pp. 1, 4, 5, 14-15 & stylistic -

2nd DRAFT

Received 24 APR 1981

SUPREME COURT OF THE UNITED STATES

No. 79-1740

Germain H. Ball et al.,
Appellants,
v.
Roland W. James et al. } On Appeal from the United States
Court of Appeals for the Ninth
Circuit.

[April —, 1981]

JUSTICE WHITE, with whom JUSTICE BRENNAN, JUSTICE MARSHALL, and JUSTICE BLACKMUN join, dissenting.

In concluding that the District's "one-acre, one-vote" scheme is constitutional, the Court misapplies the limited exception recognized in *Salyer* on the strained logic that the provision of water and electricity to several hundred thousand citizens is a "peculiarly narrow function." Because the Court misreads our prior cases and its opinion is conceptually unsound, I dissent.

I

The right to vote is of special importance because the franchise acts to preserve "other basic civil rights." *Reynolds v. Sims*, 377 U. S. 533, 562 (1964). It is presumed that "when all citizens are affected in important ways by a governmental decision," the Fourteenth Amendment "does not permit . . . the exclusion of otherwise qualified citizens from the franchise." *Phoenix v. Kolodziejcki*, 399 U. S. 204, 209 (1970). Any state statute granting the franchise to residents on a selective basis poses the "danger of denying some citizens any effective voice in the governmental affairs which substantially affect their lives." *Kramer v. Union Free School District No. 15*, 395 U. S. 621, 627 (1969).¹ See

¹ States, of course, have substantial latitude in structuring local government, and nonlegislative positions need not be elected at all. *Kramer v. Union Free School District No. 15*, 395 U. S. 621, 629 (1969). But once a State provides for elections, the Fourteenth Amendment requires that

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 25, 1981

Re: No. 79-1740-Ball v. James

Dear Potter:

I await the dissent.

Sincerely,

JM.
T.M.

Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 23, 1981

Re: No. 79-1740 - Ball y, James

Dear Byron;

Please join me.

Sincerely,

J.M.

T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 24, 1981

Re: No. 79-1740 - Ball v. James

Dear Potter:

I shall await the dissent in this case.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 23, 1981

Re: No. 79-1740 - Ball v. James

Dear Byron:

Please join me in your dissent.

Sincerely,



Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 26, 1981

79-1740 Ball v. James

Dear Potter:

Please join me in your opinion for the Court.

I am giving some thought to adding two or three paragraphs in a brief concurring opinion.

Sincerely,



Mr. Justice Stewart

lfp/ss

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

From: Mr. Justice Powell

4-16-81

Circulated: APR 16 1981

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SUPREME COURT OF THE UNITED STATES

No. 79-1740

Germain H. Ball et al., Appellants, v. Roland W. James et al.	}	On Appeal from the United States Court of Appeals for the Ninth Circuit.
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[April —, 1981]

JUSTICE POWELL, concurring.

I concur fully in the Court's opinion, and write separately only to emphasize the importance to my decision of the Arizona Legislature's control over voting requirements for the Salt River District.

The Court previously has held that when a governmental entity exercises functions that are removed from the core duties of government and disproportionately affect a particular group of citizens, that group may exercise more immediate control over the management of the entity than their numbers would dictate. *Saylor Land Co. v. Tulare Lake Basin Water Storage District*, 410 U. S. 719 (1973). See *Hadley v. Junior College District*, 397 U. S. 50, 56 (1970); *Avery v. Midland County*, 390 U. S. 474, 483-484 (1968). This rule is consistent with the principle of "one person, one vote" applicable to the elections of bodies that exercise general governmental powers. *Reynolds v. Sims*, 377 U. S. 533 (1964). The Salt River District is a governmental entity only in the limited sense that the State has empowered it to deal with particular problems of resource and service management. The District does not exercise the crucial powers of sovereignty typical of a general purpose unit of government, such as a state, county, or municipality.¹

¹The Court has held that school boards must be elected on a strictly majoritarian basis. *Hadley v. Junior College District*, 397 U. S. 50

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 25, 1981

Re: No. 79-1740 Ball v. James

Dear Potter:

Please join me in your opinion of the Court.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 25, 1981

Re: 79-1740 - Ball v. James

Dear Potter:

Please join me.

Respectfully,



Justice Stewart

Copies to the Conference