

The Burger Court Opinion Writing Database

Steagald v. United States

451 U.S. 204 (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



January 26, 1981

RE: 79-6777 - Steagald v. United States

MEMORANDUM TO THE CONFERENCE:

My vote in the above is to reverse.

Regards-

Payson vote

CJ - switched
WHR
BRW

Harry
conceded

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

CHAMBERS OF
THE CHIEF JUSTICE

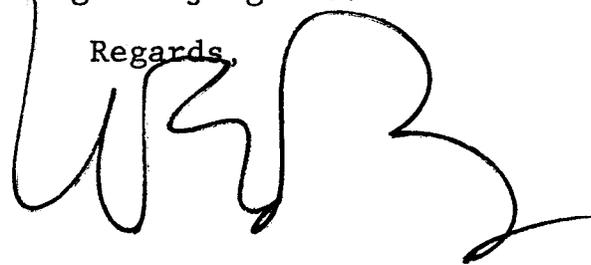
April 17, 1981

RE: 79-6777 - Steagald v. United States

Dear Thurgood:

Please show me joining the judgment.

Regards,

A large, stylized handwritten signature in black ink, likely belonging to Justice Marshall, written over the typed word "Regards".

Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 16, 1981

RE: No. 79-6777 Steagald v. United States

Dear Thurgood:

I agree.

Sincerely,

Bill

Justice Marshall

cc: The Conference

(W)

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 16, 1981

Re: No. 79-6777, Steagald v. United States

Dear Thurgood,

I am glad to join your opinion for the
Court.

Sincerely yours,

Justice Marshall

Copies to the Conference

PS,
/

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 15, 1981

Re: 79-6777 - Steagald v. U.S.

Dear Bill,

Please join me in your dissenting
opinion in this case.

Sincerely yours,

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

Mr. Justice Rehnquist
Copies to the Conference
cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 15, 1981

Re: 79-6777 - Steagald v. United States,
decided April 21, 1981

Dear Thurgood,

Until the recent amendments to our Rules, Rule 57, reflecting the 1966 statute permitting costs against the United States in civil cases, see 28 U.S.C. § 2412, permitted costs to be taxed against the United States "except that no such costs shall be allowed in criminal cases." Our new Rule 50.5 permits costs against the United States in civil cases, cites § 2412, but does not go on to forbid costs against the United States in criminal cases.

Al Stevas has inquired from you whether this omission indicates that costs should be taxed against the United States in Steagald, which you authored and recently announced.

The historic rule has been that in the absence of statutory authority "no court can give a direct judgment against the United States for costs, in a suit to which they are a party, either on behalf of any suitor, or any officer of the government." United States v. Ringgold, 8 Peters 150, 163 (1834). Neither stipulation nor court rule can supply the authority. United States v. Chemical Foundation, 272 U.S. 1, 20-21 (1926). I am unaware of any statute allowing costs against the United States in criminal cases, and I am quite sure that the omission in our new Rule of the express prohibition as to costs in criminal

Brennan

cases in our old Rule merely eliminated what was thought to be surplus language.

I note also that rule 39(b) of the present appellate rules governing appeals to the courts of appeals, provides for costs against the United States where authorized by law but not otherwise.

I am sending a copy of this to the members of the Conference in the event that there is a different view.

Sincerely yours,



Justice Marshall

Copies to the Conference

cpm

11 MAR 1981

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-6777

<p>Gary Keith Steagald, Petitioner, v. United States.</p>	}	<p>On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.</p>
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[March —, 1981]

JUSTICE MARSHALL delivered the opinion of the Court.

The issue in this case is whether, under the Fourth Amendment, a law enforcement officer may legally search for the subject of an arrest warrant in the home of a third party without first obtaining a search warrant. Concluding that a search warrant must be obtained absent exigent circumstances or consent, we reverse the judgment of the United States Court of Appeals for the Fifth Circuit affirming petitioner's conviction.

I

In early January 1978, an agent the ^{the} Drug Enforcement Administration (DEA) was contacted in Detroit, Mich., by a confidential informant who suggested that he might be able to locate Ricky Lyons, a federal fugitive wanted on drug charges. On January 14, 1978, the informant called the agent again, and gave him a telephone number in the Atlanta, Ga., area where, according to the informant, Ricky Lyons could be reached during the next 24 hours. On January 16, 1978, the agent called fellow DEA Agent Kelly Goodowens in Atlanta and relayed the information he had obtained from the informant. Goodowens contacted Southern Bell Telephone Company, and secured the address corresponding to the telephone number obtained by the inform-

Just page only

20 APR 1981

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 79-6777

<p>Gary Keith Steagald, Petitioner, v, United States.</p>	}	<p>On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.</p>
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[April —, 1981]

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I

In early January 1978, an agent of the Drug Enforcement Administration (DEA) was contacted in Detroit, Mich., by a confidential informant who suggested that he might be able to locate Ricky Lyons, a federal fugitive wanted on drug charges. On January 14, 1978, the informant called the agent again, and gave him a telephone number in the Atlanta, Ga., area where, according to the informant, Ricky Lyons could be reached during the next 24 hours. On January 16, 1978, the agent called fellow DEA Agent Kelly Goodowens in Atlanta and relayed the information he had obtained from the informant. Goodowens contacted Southern Bell Telephone Company, and secured the address corresponding to the telephone number obtained by the inform-

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 24, 1981

MEMORANDUM TO THE CONFERENCE

Re: Case held for Steagald v. United States, 79-6777

No. 80-503 King v. Wallace. Acting without a search warrant and in the absence of consent or exigent circumstances, Fairfax County Police officers searched two homes for the subject of an arrest warrant. This "fugitive" was wanted for violating a court order in a child custody dispute. Under standard police practice an arrest warrant was considered sufficient to authorize the search of third party homes in which the police reasonably believed the subject of the warrant might be found. The persons whose homes were searched subsequently brought this \$1983 action challenging the constitutionality of this police practice. Reversing the District Court, the Court of Appeals for the Fourth Circuit concluded that in the absence of consent or exigent circumstances a search warrant was constitutionally required before the homes of third parties could be searched. The Court of Appeals remanded the case to the District Court for formulation of appropriate declaratory and injunctive relief, and the Fairfax County Police filed this petition for certiorari. Because the decision of the Court of Appeals is entirely consistent with this Court's holding in Steagald v. United States, and because petitioners here raise no arguments not addressed in our decision, I will vote to deny the petition for certiorari.

Sincerely,

J.M.

T.M.



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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 2, 1981

Re: No. 79-6777 - Steagald v. United States

Dear Thurgood:

Although after the argument I was troubled by this case, I am now convinced that your opinion reaches the correct result. Please join me.

Sincerely,



Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 12, 1981

No. 79-6777 Gary Keith Steagald v. United States

Dear Thurgood:

As I voted tentatively to affirm in this case, I
will await the dissent.

Sincerely,



Mr. Justice Marshall

LFP/lab

Copies to the Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 16, 1981

79-6777 Steagald v. United States

Dear Thurgood:

Although I continue to have some doubts, given Payton that I joined, I believe your opinion reflects Fourth Amendment principles under our cases.

Your subpart IV-B also is persuasive on the question of whether the Court's holding in this case will present practical problems for law enforcement officers.

Accordingly, I join your opinion for the Court.

Sincerely,



Mr. Justice Marshall

lfp/ss

cc: The Conference

n/

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 16, 1981

Re: No. 79-6777 Stegald v. United States

Dear Thurgood:

In due course I will circulate a dissent in this case.

Sincerely,

WHR

Mr. Justice Marshall

Copies to the Conference

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

From: Mr. Justice Rehnquist

Circulated: APR 15 1981

Recirculated: _____

No. 79-6777 Steagald v. United States

JUSTICE REHNQUIST, dissenting

The Court's opinion reversing petitioner's conviction proceeds in a pristinely simple manner: Steagald had a Fourth Amendment privacy interest in the dwelling entered by the police, and even though the police entered the premises for the sole purpose of executing a valid arrest warrant for Lyons, a fugitive from justice, whom they had probable cause to believe was within, the arrest warrant was not sufficient absent exigent circumstances to justify invading Steagald's privacy interest in the dwelling. Petitioner Steagald's privacy interest is different from Lyons' interest in being free from an unreasonable seizure, according to the Court, and the arrest warrant only validated the invasion of the latter. In the words of the Court:

"the search of petitioner's home was no more reasonable from petitioner's perspective than it would have been

✓
 P. 1

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

From: Mr. Justice Rehnquist

1st PRINTED DRAFT Circulated: _____

SUPREME COURT OF THE UNITED STATES APR 16 1981

No. 79-6777

Gary Keith Steagald, Petitioner, } On Writ of Certiorari to
 v. } the United States Court
 United States. } of Appeals for the Fifth
 } Circuit.

[April —, 1981]

JUSTICE REHNQUIST, with whom JUSTICE WHITE joins, dissenting.

The Court's opinion reversing petitioner's conviction proceeds in a pristinely simple manner: Steagald had a Fourth Amendment privacy interest in the dwelling entered by the police, and even though the police entered the premises for the sole purpose of executing a valid arrest warrant for Lyons, a fugitive from justice, whom they had probable cause to believe was within, the arrest warrant was not sufficient absent exigent circumstances to justify invading Steagald's privacy interest in the dwelling. Petitioner Steagald's privacy interest is different from Lyons' interest in being free from an unreasonable seizure, according to the Court, and the arrest warrant only validated the invasion of the latter. In the words of the Court:

"the search of petitioner's home was no more reasonable from petitioner's perspective than it would have been if conducted in the absence of any warrant. Since warrantless searches of a home are impermissible absent consent or exigent circumstances, we conclude that the instant search violated the Fourth Amendment." *Ante*, at 12.

This "reasoning" not only assumes the answer to the question presented—whether the search of petitioner's dwelling could be undertaken without a search warrant—but also con-

✓ ①

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 12, 1981

Re: 79-6777 - Steagald v. United States

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

Copies to the Conference