

# The Burger Court Opinion Writing Database

*University of Texas v. Camenisch*

451 U.S. 390 (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

April 20, 1981

RE: 80-317 - University of Texas v. Camenisch

Dear Potter:

Your opinion should clear the air in this field. The attached concurrence has gone to the printers to make sure there is a focus in the District Court on the sweeping nature of the regulations and the extravagant claim that even a millionaire has a right to an interpreter paid for by the public.

Regards,

A handwritten signature in cursive script, appearing to read 'W. S.', likely representing Justice Stewart.

Justice Stewart

Copies to the Conference

FIRST DRAFT 4/20/81

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: APR 20 1981

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No. 80-317, University of Texas v. Camenisch

CHIEF JUSTICE BURGER, concurring.

It is undisputed that the University stood willing to permit respondent to have a sign-language interpreter present in the classroom at respondent's expense, and in fact had allowed that for some time prior to the filing of this lawsuit. It is also undisputed that the University's refusal to pay for an interpreter was based solely on the fact that respondent did not meet the University's established income criteria for financial assistance to graduate students.<sup>1</sup>

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<sup>1</sup> Respondent and his wife, who have no children, had a combined gross income in excess of \$23,000.00 per year while he was enrolled as a student. Stipulation of Facts, J.A. 31. At oral argument, respondent asserted that even a \$100,000.00 annual income would not affect respondent's right to an interpreter at public expense.

The University advised respondent that its policy was to pay for interpreter services when the services were not available from other agencies such as the Texas Rehabilitation Commission and the Texas Commission for the Deaf, provided that "such assistance will be based on a reasonable interpretation of financial need on an individual basis, using guidelines already in effect for Federal and other financial assistance." According to those guidelines, respondent had zero financial need. J.A. 3.

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

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1st PRINTED DRAFT

Recirculated: APR 23 1981

**SUPREME COURT OF THE UNITED STATES**

No. 80-317

University of Texas et al.,  
Petitioner,  
v.  
Walter Camenisch. } On Writ of Certiorari to the  
United States Court of Ap-  
peals for the Fifth Circuit.

[April —, 1981]

CHIEF JUSTICE BURGER, concurring.

I join the Court's opinion, but I consider it important to emphasize several aspects of the case, especially as to the regulations.

It is undisputed that the University stood willing to permit respondent to have a sign-language interpreter present in the classroom at respondent's expense, and in fact had allowed that for some time prior to the filing of this lawsuit. It is also undisputed that the University's refusal to pay for an interpreter was based solely on the fact that respondent did not meet the University's established income criteria for financial assistance to graduate students.\*

The Court's opinion, of course, is not to be read as intimating that respondent has any likelihood of success on

\*Respondent and his wife, who have no children, had a combined gross income in excess of \$23,000 per year while he was enrolled as a student. Stipulation of Facts, J. A. 31. At oral argument, respondent asserted that even a \$100,000 annual income would not affect respondent's right to an interpreter at public expense.

The University advised respondent that its policy was to pay for interpreter services when the services were not available from other agencies such as the Texas Rehabilitation Commission and the Texas Commission for the Deaf, provided that "such assistance will be based on a reasonable interpretation of financial need on an individual basis, using guidelines already in effect for Federal and other financial assistance." According to those guidelines, respondent had zero financial need. J. A. 33.

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

April 17, 1981

RE: No. 80-317 University of Texas v. Camenisch

Dear Potter:

I agree.

Sincerely,

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

Justice Stewart

cc: The Conference

PS  
Please [unclear]

To: 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

Circulated: 15 APR 1981

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 80-317

University of Texas et al.,  
Petitioner,  
v.  
Walter Camenisch. } On Writ of Certiorari to the  
United States Court of Appeals for the Fifth Circuit,

[April —, 1981]

Memorandum of JUSTICE STEWART.

On March 1, 1978, Walter Camenisch, a deaf graduate student at the University of Texas, filed a complaint alleging that the University had violated § 504 of the Rehabilitation Act of 1973, 29 U. S. C. § 794 (Supp. III, 1979), which provides that "[n]o otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The complaint alleged that the University received federal funds and that the University had discriminatorily refused to pay for a sign-language interpreter for Camenisch. The complaint asked the United States District Court for the Western District of Texas to grant declaratory relief and to "[p]reliminarily and permanently order defendants to appoint an interpreter for the plaintiff while he is a student in good standing at the defendant University."

The District Court applied the "Fifth Circuit standard for temporary relief to see if the injunction sought is appropriate." That standard, which was enunciated in *Canal Authority of the State of Florida v. Callaway*, 489 F. 2d 567 (CA5 1974), requires that a federal district court consider four factors when deciding whether to grant a preliminary

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PP. 1, 3, 8 (P. 5)  
and stylistic  
changes

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

Circulated: 17 APR 1981

2nd DRAFT

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**SUPREME COURT OF THE UNITED STATES**

No. 80-317

University of Texas et al.,  
Petitioner,  
v.  
Walter Camenisch. } On Writ of Certiorari to the  
United States Court of Ap-  
peals for the Fifth Circuit.

[April —, 1981]

JUSTICE STEWART delivered the opinion of the Court.

On March 1, 1978, Walter Camenisch, a deaf graduate student at the University of Texas, filed a complaint alleging that the University had violated § 504 of the Rehabilitation Act of 1973, 29 U. S. C. § 794 (Supp. III, 1979), which provides that “[n]o otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The complaint alleged that the University received federal funds and that the University had discriminatorily refused to pay for a sign-language interpreter for Camenisch. The complaint asked the United States District Court for the Western District of Texas to grant declaratory relief and to “[p]reliminarily and permanently order defendants to appoint an interpreter for the plaintiff while he is a student in good standing at the defendant University.”

The District Court applied the “Fifth Circuit standard for temporary relief to see if the injunction sought is appropriate.” That standard, which was enunciated in *Canal Authority of the State of Florida v. Callaway*, 489 F. 2d 567 (CA5 1974), requires that a federal district court consider four factors when deciding whether to grant a preliminary

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 21, 1981

Memorandum to the Conference

Re: 80-317 - University of Texas v. Camenisch

I have added and sent to the printer the following sentence, to be inserted after the next to the last sentence of the opinion on page 8:

Until such a trial has taken place, it would be inappropriate for this Court to intimate any view on the merits of the lawsuit.

Sincerely yours,

P.S.  
/

pp. 2, 8  
and stylistic  
changes

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

3rd DRAFT Circulated: \_\_\_\_\_

21 APR 1981

**SUPREME COURT OF THE UNITED STATES**

No. 80-317

University of Texas et al.,  
Petitioner,  
v.  
Walter Camenisch. } On Writ of Certiorari to the  
United States Court of Ap-  
peals for the Fifth Circuit.

[April —, 1981]

JUSTICE STEWART delivered the opinion of the Court.

On March 1, 1978, Walter Camenisch, a deaf graduate student at the University of Texas, filed a complaint alleging that the University had violated § 504 of the Rehabilitation Act of 1973, 29 U. S. C. § 794 (Supp. III, 1979), which provides that “[n]o otherwise qualified handicapped individual in the United States . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” The complaint alleged that the University received federal funds and that the University had discriminatorily refused to pay for a sign-language interpreter for Camenisch. The complaint asked the United States District Court for the Western District of Texas to grant declaratory relief and to “[p]reliminarily and permanently order defendants to appoint an interpreter for the plaintiff while he is a student in good standing at the defendant University.”

The District Court applied the “Fifth Circuit standard for temporary relief to see if the injunction sought is appropriate.” That standard, which was enunciated in *Canal Authority of the State of Florida v. Callaway*, 489 F. 2d 567 (CA5 1974), requires that a federal district court consider four factors when deciding whether to grant a preliminary

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 15, 1981

Re: 80-317 - University of  
Texas v. Camenisch

Dear Potter,

I agree with your memorandum in this case and see no reason why, if it commands a majority as it should, it should not be a signed opinion.

Sincerely yours,

*Byron*

Mr. Justice Stewart

Copies to the Conference

cpm

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 17, 1981

Re: No. 80-317 - University of Texas v.  
Camenisch

Dear Potter:

Please join me.

Sincerely,



T.M.

Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 20, 1981

Re: No. 80-317 - University of Texas v. Camenisch

Dear Potter:

I go along.

Sincerely,

*H. G. A.*

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 15, 1981

80-317 University of Texas v. Camenisch

Dear Potter:

I agree with your memorandum.

Sincerely,



Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 15, 1981

Re: No. 80-317 University of Texas v. Camenisch

Dear Potter:

Please join me in your Memorandum in this case.

Sincerely,



Mr. Justice Stewart

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 15, 1981

Re: 80-317 - University of Texas v.  
Camensisch

Dear Potter:

Thanks for writing out your theory. You have persuaded me and I will join an opinion patterned after your memorandum.

Respectfully,



Justice Stewart

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 23, 1981

Re: 80-317 - University of Texas v.  
Camenisch

Dear Potter:

As I trust you understand, I intend my letter of April 15 to constitute a join in what is now an opinion for the Court.

Respectfully,



Justice Stewart

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