

The Burger Court Opinion Writing Database

Jones v. Helms

452 U.S. 412 (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

CLERKS OF
THE CHIEF JUSTICE

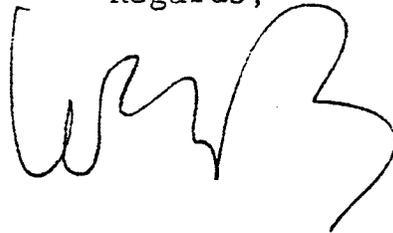
June 10, 1981

RE: 80-850 - Jones v. Helms

Dear John:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'W. J. S.', written in a cursive style.

Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 4, 1981

RE: No. 80-850 Jones v. Helms

Dear John:

I agree.

Sincerely,

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

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 1, 1981

Re: No. 80-850, Jones v. Helms

Dear John,

I am glad to join your opinion
for the Court.

Sincerely yours,

P.S.
/

Justice Stevens

Copies to the Conference

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: JUN 18 1981

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Re: No. 80-850 - Jones v. Helms

Justice White, concurring.

In Shapiro v. Thompson, 394 U.S. 618 (1969), the Court held that restricting welfare benefits to those who had resided in a state for at least one year penalized the exercise of the constitutional right to travel from state to state and that because it did so, the discrimination against newly arrived residents had to be justified by a compelling state interest to avoid violating the Equal Protection Clause. Such an interest was not found. It seemed to me at the time, and it seems to me now, that the same result would have obtained in that case without implicating the Equal Protection Clause at all, given the Court's view of the relationship between the restriction on travel and the state's justifying interests. As Justice Stewart

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

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1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-850

Elie Jones, Warden, Stone Mountain Correctional Institution,
Appellant,
v.
Bobby H. Helms. } On Appeal from the
United States Court of
Appeals for the Fifth
Circuit.

[June —, 1981]

JUSTICE WHITE, concurring.

In *Shapiro v. Thompson*, 394 U. S. 618 (1969), the Court held that restricting welfare benefits to those who had resided in a State for at least one year penalized the exercise of the constitutional right to travel from State to State and that because it did so, the discrimination against newly arrived residents had to be justified by a compelling state interest to avoid violating the Equal Protection Clause. Such an interest was not found. It seemed to me at the time, and it seems to me now, that the same result would have obtained in that case without implicating the Equal Protection Clause at all, given the Court's view of the relationship between the restriction on travel and the State's justifying interests. As JUSTICE STEWART said in concurrence, any purpose "offered in support of a law that so clearly impinges upon the constitutional right of interstate travel must be shown to reflect a *compelling* governmental interest." 394 U. S. at 643-644. In reaching its conclusion, the Court could as well have said that the proffered state interests did not justify the deterrent effect on the right to travel. Had it found those interests sufficient to warrant the residency requirement, however, the equal protection argument would also have been without force because the reason for insisting upon more than a rational basis for the requirement would have disappeared.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 4, 1981

Re: No. 80-850 - Jones v. Helms

Dear John:

Please join me.

Sincerely,



T.M.

Justice Stevens

cc: The Conference

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

From: Mr. Justice Blackmun

Circulated: JUN 10 1987

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No. 80-850, Jones v. Helms,

JUSTICE BLACKMUN, concurring in the judgment.

No one disputes that the State of Georgia can designate the crime of willful child abandonment a felony. It instead has chosen to make the crime a misdemeanor if confined within state boundaries, but a felony once abandonment is accompanied by departure from the State. Thus, in effect, the State requires an abandoning and nonsupporting parent to remain in Georgia if he or she wishes to avoid more serious criminal penalties. This burden on interstate travel applies even if the parent has no criminal intent when crossing the state line.

Given the Georgia statutory scheme, §74-9902(a) clearly penalizes appellee's exercise of his constitutional right to travel. In my view, however, that penalty is justified by the State's special interest in law enforcement in this context. The challenged criminal statute is concerned primarily with

To: The Chief Justice
Mr. Justice Burger
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Black
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Blackmun

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SUPREME COURT OF THE UNITED STATES

No. 80-850

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Appellant,
v.
Bobby H. Helms.

On Appeal from the
United States Court of
Appeals for the Fifth
Circuit.

[June —, 1981]

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Given the Georgia statutory scheme, § 74-9902 (a) clearly penalizes appellee's exercise of his constitutional right to travel. In my view, however, that penalty is justified by the State's special interest in law enforcement in this context. The challenged criminal statute is concerned primarily with restitution rather than punishment, and the core criminal conduct, willful abandonment and continuing nonsupport, is markedly more difficult to redress once the offending parent leaves the jurisdiction. A restriction that reasonably discourages departure may therefore be justified as tailored to further the precise remedial objective of the criminal law. Significantly, however, the objective advanced here is not identical to the more general goal of improving the adminis-

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 3, 1981

80-850 Jones v. Helms

Dear John:

Please join me.

Sincerely,



Mr. Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 1, 1981

Re: No. 80-850 Jones v. Helms

Dear John:

Please join me.

Sincerely,

WW

Justice Stevens

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 Rehnquist

80-850 - Jones v. Helms

From: Mr. Justice Stevens

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JUSTICE STEVENS delivered the opinion of the Court.

In Georgia, a parent who wilfully and voluntarily abandons his or her dependent child is guilty of a misdemeanor. Those parents who commit that offense within Georgia and thereafter leave the State are guilty of a felony. The question presented by this appeal is whether this statutory classification violates the Equal Protection Clause of the Fourteenth Amendment.¹

As the case comes to us, the critical facts are not in dispute. In 1976, appellee pleaded guilty in Georgia to the felony of abandoning his child and leaving the State.² By that

¹ The Fourteenth Amendment provides, in part:

"No State shall ... deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. Amdt. 14, § 1.

² Appellee pleaded guilty to a charge that he had violated Ga. Code Ann. § 74-9902 (1981 Revision), the statute at issue in this case. Section 74-9902(a) provides, in part:

"If any father or mother shall wilfully and voluntarily abandon his or her child, either legitimate or illegitimate, leaving it in a dependent condition, he or she, as the case may be, shall be guilty of a misdemeanor: Provided, however, if any father or

Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist

PP. 1-3, 5-6, 8-11, 13

From: Mr. Justice

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SUPREME COURT OF THE UNITED STATES

No. 80-850

Elie Jones, Warden, Stone Mountain Correctional Institution,
Appellant,
v.
Bobby H. Helms.

On Appeal from the United States Court of Appeals for the Fifth Circuit.

[June —, 1981]

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"If any father or mother shall wilfully and voluntarily abandon his or her child, either legitimate or illegitimate, leaving it in a dependent condition, he or she, as the case may be, shall be guilty of a misdemeanor: Provided, however, if any father or mother shall wilfully and voluntarily abandon his or her child, either legitimate or illegitimate, leaving it in a dependent condition, and shall leave this State, or if any father or

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