

The Burger Court Opinion Writing Database

Washington v. Chrisman

455 U.S. 1 (1982)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



To: Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: The Chief Justice

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0\$1349A, 11-231-81, rev. Drb

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1349

WASHINGTON, PETITIONER *v.*
NEIL MARTIN CHRISMAN

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF WASHINGTON

[November —, 1981]

CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to consider whether a police officer may, consistent with the Fourth Amendment, accompany an arrested person into his residence and seize contraband discovered there in plain view.

I

On the evening of January 21, 1978, Officer Daugherty of the Washington State University police department observed Carl Overdahl, a student at the University, leave a student dormitory carrying a half-gallon bottle of gin. Because Washington law forbids possession of alcoholic beverages by persons under 21, Wash. Rev. Code § 66.44.270, and Overdahl appeared to be under age,¹ the officer stopped him and asked for identification. Overdahl said that his identification was in his dormitory room and asked if the officer would wait while he went to retrieve it. The officer answered that under the circumstances he would have to ac-

¹ In addition, University regulations prohibit possession of alcoholic beverages on University property. Tr. 4, 34. At the suppression hearing, Officer Daugherty testified that, because of these regulations, he would have stopped Overdahl without regard to his age. Tr. 10.

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

CHAMBERS OF
THE CHIEF JUSTICE

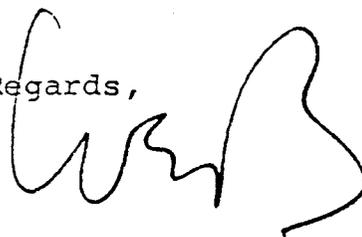
December 7, 1981

Re: 80-1349 - Washington v. Chrisman

Dear John:

I have no trouble at all with the word changes in your
December 7 memo.

Regards,

A handwritten signature in black ink, appearing to be "W. E. Burger", written in a cursive style.

Justice Stevens

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

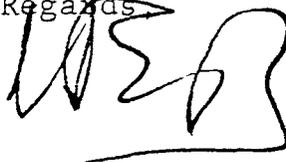
December 9, 1981

Re: No. 80-1349 - Washington v. Chrisman

Dear Harry:

Your suggestion as to Footnote 5, in your memo of December 9, gives me no problems. Your two cites simply hold what the first sentence implies.

Regards

A handwritten signature in black ink, appearing to be 'W. B.', with a horizontal line underneath.

Justice Blackmun

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3, 4, 7, 8

To: Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: The Chief Justice

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1349

WASHINGTON, PETITIONER *v.*
NEIL MARTIN CHRISMAN

ON WRIT OF CERTIORARI TO THE SUPREME COURT
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[December —, 1981]

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

November 16, 1981

RE: No. 80-1349 Washington v. Chrisman

Dear Byron:

With all the work you put into this last Term,
I assume you will be willing to undertake the dissent.

Sincerely,

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

Justice White

cc: Justice Marshall

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

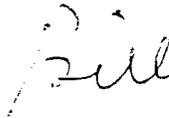
December 23, 1981

RE: No. 80-1349 Washington v. Chrisman

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
Justice Brennan
Justice Marshall ✓
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice White

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1349

WASHINGTON, PETITIONER *v.*
NEIL MARTIN CHRISMAN

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF WASHINGTON

[December —, 1981]

JUSTICE WHITE, dissenting.

The arrest in this case was made on the street. It gave officer Daugherty no authority to enter Overdahl's quarters without his consent. But Overdahl wanted to retrieve his identification from his room; if Daugherty was willing for Overdahl to do so, he could properly condition his consent on accompanying Overdahl and keeping him under close surveillance. Accordingly, when Overdahl entered his room, Daugherty could stay as close to Overdahl as he deemed necessary to protect himself and maintain control over his arrestee. If it had been reasonably necessary for Daugherty to enter the room in pursuit of these purposes, he would not have violated any of Overdahl's Fourth Amendment rights. It is also plain enough that he was entitled to stand in the doorway and keep Overdahl in sight.

The record in this case is clear, however, that Daugherty did not leave the doorway and enter the room in order to protect himself or maintain control over respondent. Daugherty's uncontradicted testimony was that he entered the room solely to confirm his suspicion that the seeds and the seashell he had observed from the doorway were marijuana seeds and a seashell pipe that had been used to smoke marijuana.¹ Daugherty made no claim that he entered the room

¹ The officer testified at the suppression hearing that he had entered the

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 28, 1981

Re: 80-1349 - Washington v. Chrisman

Dear Byron:

Please join me in your dissent.

Sincerely,

T.M.
T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 9, 1981

Re: No. 80-1349 - Washington v. Chrisman

Dear Chief:

The suggestions that John has made and that you have accepted help me with this case. If you could make one other change, you have my joinder. The change is in footnote 5 on page 7. Would you be willing to eliminate the second sentence of that footnote and insert in its place: "See, e.g., Payton v. New York, 445 U.S. 573, 585-589 (1980); Johnson v. United States, 333 U.S. 10, 14-15 (1948)."

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

December 29, 1981

Re: No. 80-1349 - Washington v. Chrisman

Dear Chief:

Please join me in your second draft circulated
December 22.

Sincerely,

Handwritten signature of H.A. Blackmun, consisting of the initials 'H.A.' followed by a stylized 'B.' and a horizontal line underneath.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 24, 1981

80-1349 Washington v. Chrisman

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

November 25, 1981

Re: No. 80-1349 Washington v. Chrisman

Dear Chief:

Please join me in your opinion for the Court.

Sincerely,



The Chief Justice

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

December 7, 1981

Re: 80-1349 - Washington v. Chrisman

Dear Chief:

With three minor suggestions, I am prepared to join your opinion.

The first two suggestions are intended to make it clear that we are not extending the plain view doctrine to cover evidence that is not incriminating.

First, would you be willing to revise the first sentence in Part II to read this way:

"The 'plain view' exception to the Fourth Amendment warrant requirement permits a law enforcement officer to seize what clearly is contraband or incriminating evidence when it is discovered in a place where the officer has a right to be."

Similarly, in the next to the last sentence in Part II on page 7, could you insert the word "incriminating" ahead of the word "evidence" so that the sentence would read:

"This is a classic instance of incriminating evidence found in plain view when a police officer, for unrelated but entirely legitimate reasons, obtains access to an individual's area of privacy."

Finally, in the preceding sentence on page 7, you state that the officer had a "duty" to act as soon as he observed the seeds and pipe. In my opinion, he had no federal duty; whether he had a state duty depends on matters of state law that I believe we should not address. This is a trivial point that normally I would

be inclined to ignore, but since the case comes to us from a state court, I think we should scrupulously confine our review to federal issues.

Respectfully,

A handwritten signature in cursive script, appearing to be 'J. M.' or similar initials.

The Chief Justice

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

December 7, 1981

Re: 80-1349 - Washington v. Chrisman

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

December 3, 1981

No. 80-1349 Washington v. Chrisman

Dear Chief,

Please join me in your opinion in the
referenced case.

Sincerely,



The Chief Justice

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