

The Burger Court Opinion Writing Database

Baldrige v. Shapiro

455 U.S. 345 (1982)

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



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

From: The Chief Justice

Circulated: FEB 13 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-1436 and 80-1781

**MALCOLM BALDRIGE, SECRETARY OF COMMERCE,
ET AL., PETITIONERS**

80-1436

v.

PETER SHAPIRO, ESSEX COUNTY EXECUTIVE

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE THIRD CIRCUIT**

**WILLIAM H. McNICHOLS, JR., ETC., ET AL.,
PETITIONERS**

80-1781

v.

**MALCOLM BALDRIGE, SECRETARY OF THE
UNITED STATES DEPARTMENT OF COMMERCE,
ET AL.**

**ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE TENTH CIRCUIT**

[January —, 1982]

CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to determine whether lists of addresses collected and utilized by the Bureau of the Census are exempt from disclosure, either by way of civil discovery or the Freedom of Information Act, under the confidentiality provisions of the Census Act, 13 U. S. C. §§8 and 9 (1976).

I

Under Art. 1, §2, cl. 3 of the United States Constitution, responsibility for conducting the decennial census rests with

Handwritten mark resembling a stylized 'M' or '7' on the right side of the page.

STYLISTIC CHANGES

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

From: The Clerk of the Court

Circulated: _____

Recirculated: FEB 20 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-1436 and 80-1781

MALCOLM BALDRIGE, SECRETARY OF COMMERCE,
ET AL., PETITIONERS

80-1436

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MALCOLM BALDRIGE, SECRETARY OF THE
UNITED STATES DEPARTMENT OF COMMERCE,
ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE TENTH CIRCUIT

[February —, 1982]

CHIEF JUSTICE BURGER delivered the opinion of the
Court.

We granted certiorari to determine whether lists of ad-
dresses collected and utilized by the Bureau of the Census
are exempt from disclosure, either by way of civil discovery
or the Freedom of Information Act, under the confidentiality
provisions of the Census Act, 13 U. S. C. §§ 8 and 9 (1976).

I

Under Art. 1, § 2, cl. 3 of the United States Constitution,
responsibility for conducting the decennial census rests with

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

CHAMBERS OF
THE CHIEF JUSTICE

March 1, 1982

RE: Cases Held for Baldrige v. Shapiro, 80-1436, and
McNichols v. Baldrige, 80-1781

MEMORANDUM TO THE CONFERENCE:

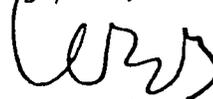
Carey v. Baldrige, No. 81-752, was the only petition for certiorari held for the referenced cases. In Carey petitioners sought access to the Census Bureau address lists in order to challenge the 1980 census count in New York. The District Court ordered broad sanctions against the Bureau when it failed to disclose the address lists as ordered, including a sanction that the Bureau not be allowed to challenge claims concerning the lists. The DC held that the Bureau had erroneously undercounted and ordered adjustment.

CA2 reversed, finding that the District Court had failed to properly consider the effect of its ruling on other States, had ordered overly-harsh sanctions and, most importantly, had erroneously ordered disclosure of the address lists. CA2 agreed that the master address lists in possession of the Bureau are protected from disclosure under the Census Act.

The reversal by CA2 is consistent with McNichols and Baldrige.

I recommend the petition be denied.

Regards,



Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 17, 1982

RE: Nos. 80-1436 and 1781 Baldrige v. Shapiro & McNichols
v. Baldrige

Dear Chief:

I agree.

Sincerely,

Bill

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 16, 1982

Re: 80-1436 & 80-1781 -
Baldrige v. Shapiro and
McNichols v. Baldrige

Dear Chief,

I agree.

Sincerely yours,

Byron

The Chief Justice
Copies to the Conference
cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 18, 1982

Re: Nos. 80-1436 and 1781 - Baldrige v. Shapiro and
McNichols v. Baldrige

Dear Chief:

Please join me.

Sincerely,

JM

T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 18, 1982

Re: No. 80-1436 - Baldrige v. Shapiro
No. 80-1781 - McNichols v. Baldrige

Dear Chief:

Please join me.

Can the reference on the second line of page 3 to the "Northern District of New Jersey" possibly be correct? I had thought that the entire State of New Jersey constituted a single judicial district. See 28 U.S.C. § 110.

Sincerely,

H.A.B.

The Chief Justice
cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 18, 1982

80-1436 Baldrige v. Shapiro
80-1781 McNichols v. Baldrige

Dear Chief:

Please join me.

Sincerely,

Lewis

The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 18, 1982

Re: Nos. 80-1436) Baldrige v. Shapiro
80-1781) McNichols v. Baldrige

Dear Chief:

Please join me.

Sincerely,
WR

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

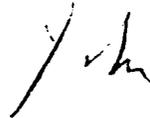
February 16, 1982

Re: 80-1436 - Baldrige v. Shapiro
80-1781 - McNichols v. Baldrige

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 16, 1982

No. 80-1436 Baldrige v. Shapiro
No. 80-1781 McNichols v. Baldrige

Dear Chief,

Please join me in your opinion in these cases.

Sincerely,



The Chief Justice

Copies to the Conference