

The Burger Court Opinion Writing Database

United States v. Johnson

457 U.S. 537 (1982)

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

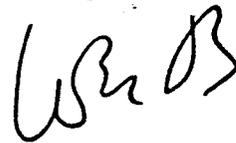
June 16, 1982

Re: No. 80-1608 - U.S. v. Johnson

Dear Byron:

I join your June 15 dissent.

Regards,

A handwritten signature in dark ink, appearing to read "WRB", is written below the typed word "Regards,".

Justice White

Copies to the Conference

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

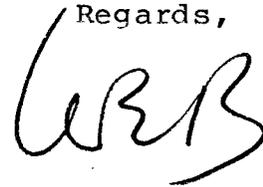
CHAMBERS OF
THE CHIEF JUSTICE

June 17, 1982

Dear Harry:

Re your memo today, Bill Rehnquist's "join" was not in when my memo went out. No. 80-1608 is now added for Monday, and I have so advised the Conference.

Regards,

A handwritten signature in cursive script, appearing to read 'WRB', written in dark ink.

Justice Blackmun

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

From: **Justice Brennan**

Circulated: _____

Recirculated: JUN 7 1982

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1608

UNITED STATES, PETITIONER *v.* RAYMOND EU-
GENE JOHNSON

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

[June —, 1982]

JUSTICE BRENNAN, concurring.

I join the Court's opinion on my understanding that the decision leaves undisturbed our retroactivity precedents as applied to convictions final at the time of decision. See, *e. g.*, *Stovall v. Denno*, 388 U.S. 293 (1967).

To: The Chief Justice
 Justice Brennan
 Justice Marshall ✓
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice Stevens
 Justice O'Connor

From: Justice White

Circulated: 14 JUN 1982

Recirculated: _____

No. 80-1608 - United States v. Johnson

Justice White, dissenting.

In my view, this case is controlled by United States v. Peltier, 422 U.S. 531 (1975). Peltier established two propositions. First, retroactive application of a new constitutional doctrine is appropriate when that doctrine's major purpose is "to overcome an aspect of the criminal trial that substantially impairs its truth-finding function and so raises serious questions about the accuracy of guilty verdicts in past trials." Id., at 535, quoting Williams v. United States, 401 U.S. 646, 653 (1971). Second, new extensions of the exclusionary rule do not serve this purpose and, therefore, will not generally be applied retroactively. There was surely nothing extraordinary about our ruling in Payton v. New York, 445 U.S. 573 (1980), that would justify an exception to this general rule.

Peltier was only the latest of a number of cases involving the question of whether rulings extending the reach of the exclusionary rule should be given retroactive effect. We noted there, that "in every case in which the Court has addressed the retroactivity problem in the context of the exclusionary rule ... the Court has concluded that any new constitutional principle would be accorded only prospective application." 422 U.S., at 534. We suggested that there were two reasons for this consistent pattern of decisions and that these two reasons were directly related to the justifications for the exclusionary rule.

That rule has traditionally been understood to serve two

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

From: **Justice White**

Circulated: _____

Recirculated: 15 JUN 1982

STYLISTIC CHANGES THROUGHOUT.
 SEE PAGES:

Printed
 1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1608

UNITED STATES, PETITIONER *v.* RAYMOND
 EUGENE JOHNSON

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

[June —, 1982]

JUSTICE WHITE, dissenting.

In my view, this case is controlled by *United States v. Peltier*, 422 U. S. 531 (1975). *Peltier* established two propositions. First, retroactive application of a new constitutional doctrine is appropriate when that doctrine's major purpose is "to overcome an aspect of the criminal trial that substantially impairs its truth-finding function and so raises serious questions about the accuracy of guilty verdicts in past trials." *Id.*, at 535, quoting *Williams v. United States*, 401 U. S. 646, 653 (1971). Second, new extensions of the exclusionary rule do not serve this purpose and, therefore, will not generally be applied retroactively. There was surely nothing extraordinary about our ruling in *Payton v. New York*, 445 U. S. 573 (1980), that would justify an exception to this general rule.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 9, 1982

Re: No. 80-1608 - U.S. v. Johnson

Dear Harry:

Please join me.

Sincerely,

T.M.
T.M.

Justice Blackmun

cc: The Conference

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

From: **Justice Blackmun**

Circulated: JUN 3 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1608

UNITED STATES, PETITIONER *v.* RAYMOND
 EUGENE JOHNSON

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

[June —, 1982]

JUSTICE BLACKMUN delivered the opinion of the Court.

In *Payton v. New York*, 445 U. S. 573 (1980), this Court held that the Fourth Amendment¹ prohibits the police from making a warrantless and nonconsensual entry into a suspect's home to make a routine felony arrest. The question before us in the present case is whether the rule announced in *Payton* applies to an arrest that took place before *Payton* was decided.

I

Special Agents Hemenway and Pickering of the United States Secret Service suspected respondent Raymond Eugene Johnson and his codefendant, Oscar Joseph Dodd, of attempting to negotiate a misdelivered United States Treasury check.² Proceeding without an arrest warrant, on May 5,

¹The Fourth Amendment reads:

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

²On March 30, 1977, the United States Postal Service mistakenly delivered to Lena Kearney a Treasury check for \$4,681.41, payable to Elihu Peterson. Kearney and her sister-in-law sought Dodd's assistance in cashing

Stylistic Changes
 -Pages: 11, 19, 20, 23, 25, 26
 Footnotes 12-22 renumbered

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

From: **Justice Blackmun**

Circulated: _____

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1608

UNITED STATES, PETITIONER *v.* RAYMOND
 EUGENE JOHNSON

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

[June —, 1982]

JUSTICE BLACKMUN delivered the opinion of the Court.

In *Payton v. New York*, 445 U. S. 573 (1980), this Court held that the Fourth Amendment¹ prohibits the police from making a warrantless and nonconsensual entry into a suspect's home to make a routine felony arrest. The question before us in the present case is whether the rule announced in *Payton* applies to an arrest that took place before *Payton* was decided.

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²On March 30, 1977, the United States Postal Service mistakenly delivered to Lena Kearney a Treasury check for \$4,681.41, payable to Elihu Peterson. Kearney and her sister-in-law sought Dodd's assistance in cashing

HAB

June 17, 1982

Re: No. 80-1608 - United States v. Johnson

Dear Chief:

I had thought that No. 80-1608 was tentatively marked for Monday. All the votes are in, and neither Byron or I intend to write further. Perhaps you had a reason for deferring this announcement.

Sincerely,

HAB

The Chief Justice

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

June 22, 1982

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

Memorandum to the Conference

Re: Cases held for No. 80-1608, United States v. Johnson

The following seven cases have been held for Johnson:

1. No. 80-6397, Graham v. New York

In 1975, police officers arrested petitioner in his motel room without a warrant. After evidence seized from the room was introduced at trial, petitioner was convicted of second-degree murder, felony murder, first-degree kidnaping and first-degree robbery. On appeal, the New York Supreme Court, Appellate Division, reversed the kidnaping and robbery counts as lesser included offenses, but affirmed the murder convictions, finding the warrantless arrest constitutional because it was based on probable cause. The New York Court of Appeals denied leave to appeal.

This Court GVR'd petitioner's original cert petition for reconsideration in the light of Payton, 446 U.S. 932 (1980). On remand, the Appellate Division declined to apply Payton retroactively and adhered to its original decision. The New York Court of Appeals again denied leave to appeal.

Since petitioner's case was pending on direct appeal when Payton was decided, under United States v. Johnson, petitioner should have received the benefit of Payton's rule. I therefore shall vote to grant, vacate, and remand for reconsideration in the light of United States v. Johnson.

2. No. 80-6609, Wilkerson v. Blackburn

In 1970, police officers arrested petitioner in his house, without a warrant or exigent circumstances. Petitioner's robbery conviction was affirmed on direct appeal.

Petitioner then brought this state habeas petition, claiming that Payton should apply retroactively to invalidate his conviction. The Louisiana S.Ct. denied petitioner's application for certiorari, relying on its then recent decision in State v. Friddle, 396 So.2d 1242 (1981). In Friddle, the court had refused to apply retroactively both Payton and State v. Brown, 387 So.2d 567 (La. 1980), which had relied on Payton to hold that a warrantless entry into a defendant's home to make an arrest violated the Louisiana Constitution. The Louisiana Supreme Court based Friddle on United States v. Peltier, 422 U.S. 531 (1975), and the fact that "the United States Supreme

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

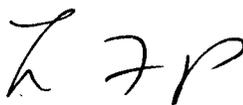
June 7, 1982

80-1608 United States v. Johnson

Dear Harry:

Please join me.

Sincerely,



Justice Blackmun



lfp/ss

cc: The Conference

85 10-1

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 17, 1982

Re: No. 80-1608 United States v. Johnson

Dear Byron:

Please join me.

Sincerely,

WHR/gb

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 4, 1982

Re: 80-1608 - United States v. Johnson

Dear Harry:

Please join me.

Respectfully,



Justice Blackmun

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88 11-4 11:11

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 7, 1982

Re: No. 80-1608 United States v. Johnson

Dear Harry,

I will wait for the dissent.

Sincerely,



Justice Blackmun

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

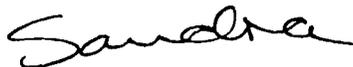
June 14, 1982

No. 80-1608 United States v. Johnson

Dear Byron,

Please join me in your dissenting opinion.

Sincerely,



Justice White

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.85 70 JV 600