

The Burger Court Opinion Writing Database

Rogers v. Lodge

458 U.S. 613 (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

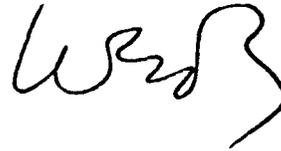
59
June 2, 1982

Re: No. 80-2100 - Rogers v. Lodge

Dear Byron:

I join.

Regards,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 29, 1982

RE: No. 80-2100 Rogers v. Lodge

Dear Byron:

Please join me.

Sincerely,



Justice White
cc: The Conference

88 46 20 11 12

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

From: **Justice White**

Circulated: **27** APR 1982

Recirculated: _____

1st PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2100

QUENTIN ROGERS, ET AL., APPELLANTS *v.*
 HERMAN LODGE ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
 THE ELEVENTH CIRCUIT

[April —, 1982]

JUSTICE WHITE delivered the opinion of the Court.

The issue in this case is whether the at-large system of elections in Burke County, Georgia violates the Fourteenth Amendment rights of Burke County's black citizens.

I

Burke County is a large, predominately rural county located in eastern Georgia. Eight hundred and thirty-one square miles in area,¹ it is approximately two-thirds the size of the State of Rhode Island. According to the 1980 Census, Burke County had a total population of 19,349, of whom 10,385, or 53.6%, were black.² The average age of blacks living there is lower than the average age of whites and therefore whites constitute a slight majority of the voting age population. As of 1978, 6,373 persons were registered to

¹United States Department of Commerce, Bureau of the Census, County and City Data Book 1977, p. 90.

²United States Dept. of Commerce, Bureau of the Census, 1980 Census of Population and Housing, PHC80-V-12. March 1981, p. 5. In 1930, Burke County had a total population of 29,224, of whom 12,698 or 78 percent were black. United States Dept. of Commerce, Bureau of the Census, II Characteristics of the Population, Pt. 2, p. 229 (1943). The percentage of blacks in the total population of Burke County has steadily diminished over the last 50 years.

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

From: **Justice White**

p. 4 and stylistic changes

Circulated: _____

Recirculated: 6/28/82

2nd PRINTED DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2100

QUENTIN ROGERS, ET AL., APPELLANTS *v.*
 HERMAN LODGE ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
 THE FIFTH CIRCUIT

[June —, 1982]

JUSTICE WHITE delivered the opinion of the Court.

The issue in this case is whether the at-large system of elections in Burke County, Georgia violates the Fourteenth Amendment rights of Burke County's black citizens.

I

Burke County is a large, predominately rural county located in eastern Georgia. Eight hundred and thirty-one square miles in area,¹ it is approximately two-thirds the size of the State of Rhode Island. According to the 1980 Census, Burke County had a total population of 19,349, of whom 10,385, or 53.6%, were black.² The average age of blacks living there is lower than the average age of whites and therefore whites constitute a slight majority of the voting age population. As of 1978, 6,373 persons were registered to

¹United States Department of Commerce, Bureau of the Census, County and City Data Book 1977, p. 90.

²United States Dept. of Commerce, Bureau of the Census, 1980 Census of Population and Housing, PHC80-V-12, March 1981, p. 5. In 1930, Burke County had a total population of 29,224, of whom 12,698 or 78 percent were black. United States Dept. of Commerce, Bureau of the Census, II Characteristics of the Population, Pt. 2, p. 229 (1943). The percentage of blacks in the total population of Burke County has steadily diminished over the last 50 years.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 6, 1982

Re: No. 80-2100 - Quentin Rogers v. Herman Lodge

Dear Byron:

Please join me.

Sincerely,



T.M.

Justice White

cc: The Conference

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

May 3, 1982

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

Re: No. 80-2100 - Rogers v. Lodge

Dear Byron:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a horizontal line underneath it.

Justice White

cc: The Conference

85 WA-3 11/11

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 29, 1982

80-2100 Rogers v. Lodge

Dear Byron:

I will await John's dissent.

Sincerely,



Justice White

lfp/ss

cc: The Conference

.95 VLB 86 6803

June 24, 1982

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

From: Justice Powell

Circulated: JUN 24 1982

Recirculated: _____

First Draft

No. 80-2100, Rogers v. Lodge

Justice Powell, dissenting.

I

Mobile v. Bolden, 446 U.S. 55 (1980), establishes that an at-large voting system must be upheld against constitutional attack unless maintained for a discriminatory purpose. In Mobile we reversed a finding of unconstitutional vote dilution because the lower courts had relied on factors insufficient as a matter of law to establish discriminatory intent. See 446 U.S., at 73 (plurality opinion of Stewart, J.). The District Court and Court of Appeals in this case based their findings of unconstitutional discrimination on the same factors held insufficient in Mobile. Yet the Court now finds their conclusion unexceptionable. The Mobile plurality also

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

From: **Justice Powell**

Circulated: JUN 25 1982

Recirculated: _____

1st Printed DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2100

QUENTIN ROGERS, ET AL., APPELLANTS *v.*
 HERMAN LODGE ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
 THE ELEVENTH CIRCUIT

[June —, 1982]

JUSTICE POWELL, with whom JUSTICE REHNQUIST joins,
 dissenting.

I

Mobile v. Bolden, 446 U. S. 55 (1980), establishes that an at-large voting system must be upheld against constitutional attack unless maintained for a discriminatory purpose. In *Mobile* we reversed a finding of unconstitutional vote dilution because the lower courts had relied on factors insufficient as a matter of law to establish discriminatory intent. See 446 U. S., at 73 (plurality opinion of Stewart, J.). The District Court and Court of Appeals in this case based their findings of unconstitutional discrimination on the same factors held insufficient in *Mobile*. Yet the Court now finds their conclusion unexceptionable. The *Mobile* plurality also affirmed that the concept of "intent" was no mere fiction, and held that the District Court had erred in "its failure to identify the state officials whose intent it considered relevant." *Id.*, at 74 n. 20. Although the courts below did not answer that question in this case, the Court today affirms their decision.

Whatever the wisdom of *Mobile*, the Court's opinion cannot be reconciled persuasively with that case. There are some variances in the largely sociological evidence presented in the two cases. But *Mobile* held that this *kind* of evidence

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 24, 1982

Re: No. 80-2100 Rogers v. Herman Lodge

Dear Lewis:

Please join me in your dissent.

Sincerely,

WHR/gb

Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 29, 1982

Re: 80-2100 - Rogers v. Lodge

Dear Byron:

In due course I will circulate a dissent.

Respectfully,



Justice White

Copies to the Conference

APR 30 1982

To: THE CHIEF JUSTICE
 JUSTICE BRENNAN
 JUSTICE WHITE
 ✓ JUSTICE MARSHALL
 JUSTICE BLACKMUN
 JUSTICE POWELL
 JUSTICE REHNQUIST
 JUSTICE O'CONNOR

June 23, 1982

1st DRAFT

80-2100 - Rogers v. Lodge

JUSTICE STEVENS, dissenting.

Our legacy of racial discrimination has left its scars on Burke County, Georgia.¹ The record in this case amply supports the conclusion that the governing officials of Burke County have repeatedly denied black citizens rights guaranteed by the Fourteenth and Fifteenth Amendments to the Federal Constitution. No one could legitimately question the validity of remedial

¹Certain vestiges of discrimination--although clearly not the most pressing problems facing black citizens today--are a haunting reminder of an all too recent period of our nation's history. The District Court found that a segregated laundromat is operated within a few blocks of the county courthouse; at the courthouse itself, faded paint over restroom doors does not entirely conceal the words "colored" and "white."

7. 17, 19, 28-23

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

From: **Justice Stevens**

Circulated: _____

Recirculated: JIN

1st Printed DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2100

QUENTIN ROGERS, ET AL., APPELLANTS *v.*
 HERMAN LODGE ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
 THE ELEVENTH CIRCUIT

[June —, 1982]

JUSTICE STEVENS, dissenting.

Our legacy of racial discrimination has left its scars on Burke County, Georgia.¹ The record in this case amply supports the conclusion that the governing officials of Burke County have repeatedly denied black citizens rights guaranteed by the Fourteenth and Fifteenth Amendments to the Federal Constitution. No one could legitimately question the validity of remedial measures, whether legislative or judicial, designed to prohibit discriminatory conduct by public officials and to guarantee that black citizens are effectively afforded the rights to register and to vote. Public roads may not be paved only in areas in which white citizens live;² black citizens may not be denied employment opportunities in county government;³ segregated schools may not be maintained.⁴

¹Certain vestiges of discrimination—although clearly not the most pressing problems facing black citizens today—are a haunting reminder of an all too recent period of our nation's history. The District Court found that a segregated laundromat is operated within a few blocks of the county courthouse; at the courthouse itself, faded paint over restroom doors does not entirely conceal the words "colored" and "white."

²*Dowdell v. City of Apopka*, 511 F. Supp. 1375 (MD Fla. 1981).

³42 U. S. C. § 2000e-2.

⁴*Brown v. Board of Education*, 347 U. S. 483.

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

P. 4, 6, 7, 11

2nd Printed Draft

SUPREME COURT OF THE UNITED STATES

Circulated: _____
Recirculated: _____

No. 80-2100

QUENTIN ROGERS, ET AL., APPELLANTS v.
HERMAN LODGE ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT

[July 1, 1982]

JUSTICE STEVENS, dissenting.

Our legacy of racial discrimination has left its scars on Burke County, Georgia.¹ The record in this case amply supports the conclusion that the governing officials of Burke County have repeatedly denied black citizens rights guaranteed by the Fourteenth and Fifteenth Amendments to the Federal Constitution. No one could legitimately question the validity of remedial measures, whether legislative or judicial, designed to prohibit discriminatory conduct by public officials and to guarantee that black citizens are effectively afforded the rights to register and to vote. Public roads may not be paved only in areas in which white citizens live;² black citizens may not be denied employment opportunities in county government;³ segregated schools may not be maintained.⁴

Nor, in my opinion, could there be any doubt about the constitutionality of an amendment to the Voting Rights Act that

¹Certain vestiges of discrimination—although clearly not the most pressing problems facing black citizens today—are a haunting reminder of an all too recent period of our nation's history. The District Court found that a segregated laundromat is operated within a few blocks of the county courthouse; at the courthouse itself, faded paint over restroom doors does not entirely conceal the words "colored" and "white."

²See *Dowdell v. City of Apopka*, 511 F. Supp. 1375 (MD Fla. 1981).

³42 U. S. C. § 2000e-2.

⁴*Brown v. Board of Education*, 347 U. S. 483.

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 24, 1982

No. 80-2100 Rogers v. Lodge

Dear Byron,

Please join me.

Sincerely,



Justice White

Copies to the Conference