

The Burger Court Opinion Writing Database

Connecticut v. Teal

457 U.S. 440 (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

April 2, 1982

Re: No. 80-2147 - Connecticut v. Teal

Dear Lewis:

Will you take on a dissent in this case?

Regards,

A handwritten signature in black ink, appearing to be 'L Powell', written in a cursive style.

Justice Powell

cc: Justice Rehnquist
Justice O'Connor

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

CHAMBERS OF
THE CHIEF JUSTICE

June 7, 1982

PERSONAL

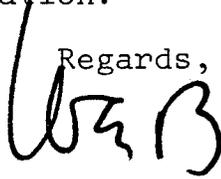
Re: 80-2147 - Connecticut v. Teal

Dear Lewis:

Bill's opinion reference to "an appropriate balance" seems inconsistent with our unanimous rejection of "racial balance" as a constitutional requirement in Swann, (your favorite case!)

Since you are writing a dissent, I thought I'd "flag" this for consideration.

Regards,

A handwritten signature in black ink, appearing to be 'WJP', written over the typed word 'Regards,'.

Justice Powell

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

CHAMBERS OF
THE CHIEF JUSTICE

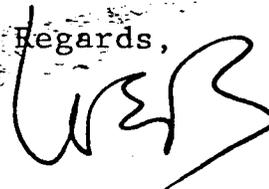
June 16, 1982

Re: No. 80-2147 - Connecticut v. Teal

Dear Lewis:

I join your dissent of June 16, 1982.

Regards,



Justice Powell

Copies to the Conference

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

From: **Justice Brennan**

Circulated: MAY 6 1982

Recirculated: _____

W.E.
13
11
12

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2147

CONNECTICUT, ET AL., PETITIONERS *v.*
WINNIE TEAL ET AL.

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

[May —, 1982]

JUSTICE BRENNAN delivered the opinion of the Court.

We consider here whether an employer sued for violation of Title VII of the Civil Rights Act of 1964¹ may assert a "bottom line" theory of defense. Under that theory, as asserted in this case, an employer's acts of racial discrimination in promotions—effected by an examination having disparate impact—would not render the employer liable for the racial discrimination suffered by employees barred from promotion if the "bottom line" result of the promotional process was an appropriate racial balance. We hold that the "bottom line" does not preclude respondent-employees from establishing a prima facie case, nor does it provide petitioner-employer with a defense to such a case.

I

Four of the respondents, Winnie Teal, Rose Walker, Edith Latney, and Grace Clark, are black employees of the Department of Income Maintenance of the State of Connecticut.²

¹Title VII of the Civil Rights Act of 1964, 78 Stat. 253, as amended, 42 U. S. C. § 2000e *et. seq.*

²The black respondents were joined as plaintiffs by four white employees on a pendent claim that the written test violated provisions of state law that require promotional exams to be job related. That claim is not before us. See 645 F. 2d, at 135, n. 3.

RECEIVED
SUPREME COURT, U.S.
JUSTICE BRENNAN

'82 MAY -6 P12:45

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 18, 1982

Re: 80-2147 - Connecticut v. Teal

Dear Bill,

Please join me.

Sincerely yours,

A handwritten signature in cursive, appearing to be "Brennan", written in dark ink.

Justice Brennan

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 6, 1982

Re: No. 80-2147 - Connecticut v. Teal

Dear Bill:

Please join me.

Sincerely,



T.M.

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 10, 1982

Re: No. 80-2147 - Connecticut v. Teal

Dear Bill:

Please join me.

Sincerely,

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

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 10, 1982

80-2147 Connecticut v. Teal

Dear Bill:

As I was on the "down side" in this case, I will
await other writing.

Sincerely,



Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 10, 1982

80-2147 Connecticut v. Teal

Dear Bill:

I expect to write a dissent in this case, but it will take awhile.

Sincerely,

Lewis

Justice Brennan

Copies to the Conference

LFP/vde

.95 MAY 10 1982

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

June 15, 1982

From: Justice Powell

circulated: JUN 15 1982

Recirculated: _____

80-2147, Connecticut v. Teal

Justice Powell, dissenting.

In past decisions, this Court has been sensitive to the critical difference between cases proving discrimination under Title VII, 42 U.S.C. §2000(e), et seq., by a showing of disparate treatment or discriminatory intent and those proving such discrimination by a showing of disparate impact. Because today's decision blurs that distinction and results in a holding inconsistent with the vary nature of disparate-impact claims, I dissent.

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

stylistic change: 8

From: **Justice Powell**

Circulated: _____

Recirculated: JUN 16 1982

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-2147

CONNECTICUT, ET AL., PETITIONER *v.*
 WINNIE TEAL ET AL.

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

[June —, 1982]

JUSTICE POWELL, dissenting.

In past decisions, this Court has been sensitive to the critical difference between cases proving discrimination under Title VII, 42 U. S.C. § 2000(e), *et seq.*, by a showing of disparate treatment or discriminatory intent and those proving such discrimination by a showing of disparate impact. Because today's decision blurs that distinction and results in a holding inconsistent with the vary nature of disparate-impact claims, I dissent.

I

Section 703(a)(2) of Title VII, 42 U. S.C. § 2000e-2(a)(2), provides that it is an unlawful employment practice for an employer to

“limit, segregate or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, color, religion, sex, or national origin.”

Although this language suggests that discrimination occurs only on an individual basis, in *Griggs v. Duke Power Co.*, 401 U. S. 424, 432 (1971), the Court held that discriminatory in-

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 17, 1982

Re: No. 80-2147 Connecticut v. Teal

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

May 6, 1982

Re: 80-2147 - Connecticut v. Teal

Dear Bill:

Please join me.

Respectfully,



Justice Brennan

Copies to the Conference

85 MAY -8 64:08

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

80-2147 S6

May 13, 1982

No. 80-2147 Connecticut v. Teal

Dear Bill,

My vote at Conference on this case was tentative. I will wait until the dissent is circulated before deciding whether to join.

Sincerely,



Justice Brennan

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

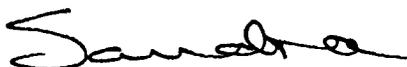
June 16, 1982

No. 80-2147 Connecticut v. Teal

Dear Lewis,

Please join me in your dissent.

Sincerely,



Justice Powell

Copies to the Conference