

The Burger Court Opinion Writing Database

Greene v. Lindsey

456 U.S. 444 (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

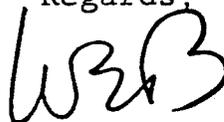
May 11, 1982

Re: No. 81-341 - Greene v. Lindsey

Dear Sandra:

I join your dissent to the Court's opinion of
May 7.

Regards,



Justice O'Connor

Copies to the Conference

85 MAY 11 03:01

WLB
Please see me
JH

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

From: Justice Brennan

Circulated: MAR 24 1982

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-341

**JOSEPH GREENE, ET AL., APPELLANTS v.
LINNIE LINDSEY, ET AL.**

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[March —, 1982]

JUSTICE BRENNAN delivered the opinion of the Court.

A Kentucky statute provides that in forcible entry and detainer actions, service of process may be made under certain circumstances by posting a summons on the door of a tenant's apartment. The question presented is whether this statute, as applied to tenants in a public housing project, fails to afford such a tenant the notice of proceedings initiated against him that is required by the Due Process Clause of the Fourteenth Amendment.

I

Appellees Linnie Lindsey, Barbara Hodgens, and Pamela Ray are tenants in a Louisville, Ky. housing project. Appellants are the Sheriff of Jefferson Co., Ky., and certain unnamed deputy sheriffs charged with responsibility for serving process in forcible entry and detainer actions. In 1975, the Housing Authority of Louisville initiated detainer actions against each of appellees, seeking repossession of their apartments. Service of process was made pursuant to the Ky. Rev. Stat. § 454.030, which states:

"If the officer directed to serve notice on the defendant in forcible entry or detainer proceedings cannot find the defendant on the premises mentioned in the writ, he may explain and leave a copy of the notice with any

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

From: Justice Brennan

Circulated: _____

Recirculated: 5/7/82

1/6/10/11

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-341

JOSEPH GREENE, ET AL., APPELLANTS *v.*
LINNIE LINDSEY, ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[May —, 1982]

JUSTICE BRENNAN delivered the opinion of the Court.

A Kentucky statute provides that in forcible entry and detainer actions, service of process may be made under certain circumstances by posting a summons on the door of a tenant's apartment. The question presented is whether this statute, as applied to tenants in a public housing project, fails to afford those tenants the notice of proceedings initiated against them required by the Due Process Clause of the Fourteenth Amendment.

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SUPREME COURT, U.S.
JUSTICE MARSHALL

'82 MAY -7 P12:44

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 31, 1982

Re: 81-341 - Greene v. Lindsey

Dear Bill,

Please join me.

Sincerely yours,



Justice Brennan

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 25, 1982

Re: No. 81-341 - Greene v. Lindsey

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

April 1, 1982

Re: No. 81-341 - Greene v. Lindsey

Dear Bill:

Please join me.

Sincerely,

Larry
—

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 25, 1982

81-341 Greene v. Lindsey

Dear Bill:

Please join me.

Sincerely,



Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

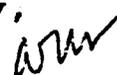
May 6, 1982

Re: No. 81-341 Greene v. Lindsey

Dear Sandra:

Please join me in your dissenting opinion.

Sincerely,



Justice O'Connor

Copies to the Conference

85 MAY -2 53:34

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 25, 1982

Re: No. 81-341 Greene v. Lindsey

Dear Bill:

Please join me.

Respectfully,



Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 25, 1982

No. 81-341 Greene v. Lindsey

Dear Bill,

In due course, I will circulate a dissent.

Sincerely,



Justice Brennan

Copies to the Conference

To: The Chief Justice
Justice Brennan
Justice White
✓ Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: MAY 5 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-341

JOSEPH GREENE, ET AL., APPELLANTS v.
LINNIE LINDSEY ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[May —, 1982]

JUSTICE O'CONNOR, dissenting:

Today, the Court holds that the Constitution prefers the use of the postal service to posted notice. The Court reaches this conclusion despite the total absence of any evidence in the record regarding the speed and reliability of the mails. The sole ground for the Court's result is the scant and conflicting testimony of a handful of process servers in Kentucky. On this flimsy basis, the Court confidently overturns the work of the Kentucky legislature and, by implication, that of at least ten other States. I must respectfully dissent.

At a minimum, the Fourteenth Amendment requires "notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action." *Mullane v. Central Hanover Tr. Co.*, 339 U. S. 306, 314 (1950). The question before the Court is whether the notice provided by Kentucky's statute meets this standard. In answering that question, the first "circumstances" to be considered are the nature and purpose of the action for which notice is required.

Kentucky's forcible entry and detainer action is a summary proceeding for quickly determining whether or not a landlord has the right to immediate possession of leased premises and, if so, to enable the landlord speedily to obtain the property from the person in wrongful possession. Ky. Rev. Stat.

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: _____
Recirculated: MAY 11 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-341

JOSEPH GREENE, ET AL., APPELLANTS *v.*
LINNIE LINDSEY ET AL.

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PP. 1, 3, 4, 5

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PP. 1, 3, 5

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall ✓
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: _____

Recirculated: **MAY 12 1987**

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-341

JOSEPH GREENE ET AL., APPELLANTS, *v.*
LINNIE LINDSEY ET AL.

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

[May —, 1982]

JUSTICE O'CONNOR, with whom THE CHIEF JUSTICE and
JUSTICE REHNQUIST join, dissenting:

Today, the Court holds that the Constitution prefers the use of the postal service to posted notice. The Court reaches this conclusion despite the total absence of any evidence in the record regarding the speed and reliability of the mails. The sole ground for the Court's result is the scant and conflicting testimony of a handful of process servers in Kentucky. On this flimsy basis, the Court confidently overturns the work of the Kentucky legislature and, by implication, that of at least ten other States. I must respectfully dissent.

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