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Los Angeles v. Lyons

461 U.S. 95 (1983)

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



M

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

CHAMBERS OF
THE CHIEF JUSTICE

November 13, 1982

Re: 81-1064 - City of Los Angeles v. Lyons

MEMORANDUM TO THE CONFERENCE:

My further consideration on this case confirms my view that the Respondent lacked standing to secure the injunctive relief granted and I'm confirming my tentative vote to reverse.

Regards,

WEB

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

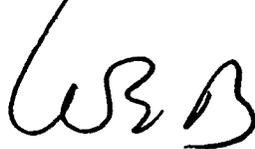
February 4, 1983

Re: No. 81-1064, Los Angeles v. Lyons

Dear Byron:

I have had problems from the outset in this case on standing. They remain. Sandra's suggestion in her January 26 memo expresses something of my view and if you can accommodate her it will likely take care of my problems.

Regards,

A handwritten signature in black ink, appearing to be 'W. E. B.', written in a cursive style.

Justice White

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

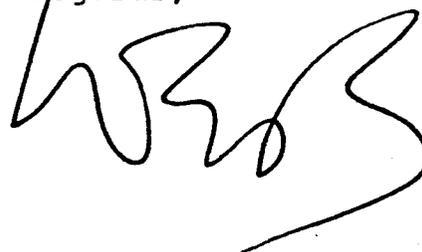
March 22, 1983

Re: No. 81-1064, City of Los Angeles v. Lyons

Dear Byron:

I join.

Regards,

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

Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

November 10, 1982

MEMORANDUM TO THE CONFERENCE

Re: No. 81-1064 -- City of Los Angeles v. Lyons

Our conference discussion last Friday on the disposition of this case did not, I think, produce a clear majority for any particular disposition. I thought it might be of some use if I set out my views at greater length. I still favor a remand for reconsideration of the desirability of the injunction in light of respondent's representations at oral argument.

The Los Angeles Board of Police Commissions voluntarily suspended the police policy complained of in this case almost exactly six months ago, and there is a strong probability that the Board will either extend the moratorium or make it permanent when it considers the issue sometime this month. Assuming that the original policy is not reinstated, I strongly believe that we should, both as a matter of sound judicial policy and to avoid the pointless expenditure of our limited time and energy, decline to reach the sensitive and controversial questions of standing and federalism raised by petitioner. Rather, I propose, as I said, that we vacate the injunction issued by the District Court and remand the case to the Court of Appeals with instructions that it or the District Court reconsider the present need for injunctive relief in light of the change in circumstances since the injunction was issued and the representations of respondent. See Fortson v. Toombs, 379 U. S. 621 (1964). Considering what we

heard at oral argument, I think it clear that the injunction would not be reinstated under the present circumstances.

I should emphasize, as I did at conference, that I do not believe that this case is technically moot. In my view, the doctrine that the mere cessation of an activity does not moot litigation attempting to enjoin it applies. Moreover, the mere fact that the party who prevailed below is now willing to forego his relief is, I believe, also insufficient to moot the case. Nevertheless, general principles of equity jurisprudence make it quite clear that the injunctive relief at issue in this case is no longer appropriate, and leave us with absolutely no reason to have to decide whether such relief would also be barred by constitutional or prudential considerations of the sort urged by petitioners.

The course I suggest is, of course, entirely consistent with countless cases in which we have dismissed certiorari as improvidently granted or vacated a decree below in light of changed circumstances. Indeed, at the very same conference during which we discussed the subject of this memorandum, we also agreed to DIG Poythress v. Duncan, No. 81-1055, on the basis that the injunctive relief being sought had become pointless in light of the elections that had taken place on November 2.

More specifically, the precise order I am proposing has ample support in our precedents. In Fortson v. Toombs, supra, for example, a Federal District Court, having held that the Georgia Legislature was malapportioned, enjoined the malapportioned legislature from proposing a new state

constitution to the electorate. The State appealed the injunction to this Court, claiming that the District Court improperly attempted to "delimit the law-making power during the interim period pending reapportionment," Juris. Statement, O.T. 1964, No. 300, p. 10, and "virtually place[d] the state in a receivership," id. at 21. The appellees submitted a brief arguing that, because changes in the make-up of the malapportioned legislature since the District Court entered its injunction made it unlikely that the present legislature would even want to submit a new state constitution to the voters, the challenged injunctive relief was no longer necessary and should be vacated without prejudice to its reinstatement should circumstances change again. Appellants resisted this suggestion vigorously, arguing, in a manner reminiscent of petitioners' statements in this case, that vacating the injunctive relief at issue would "leave[] undisturbed the fact that a federal court has condemned the ... procedure here involved, and that the legal principle implicit therein still stands." Appellant's Reply to Supplemental Memorandum of Appellees, O.T. 1964, No. 300, p. 5. Nevertheless, the Court declined to reach the merits of petitioner's objections to the District Court's original decision, and instead vacated the part of the District Court decree at issue and remanded "for reconsideration of the desirability and need of the on-going injunction in light of the [changed make-up of the legislature] and the representations of appellees." 379 U. S., at 622.

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I also find very relevant our disposition of Taggart v. Winacker's, Inc., 397 U. S. 223 (1970). In Taggart, a state court issued an injunction prohibiting petitioners, members of a labor union, from picketing certain premises owned by respondent and on which he operated a store. Among the questions presented in the petition for a writ of certiorari was "whether the state court [was] without jurisdiction to adjudicate the controversy because the protection accorded and the restraint imposed [was] ... within the sole competence of the National Labor Relations Board." Pet. for Cert., O.T. 1969, No. 74, p. 2. Sometime after the injunction issued, however, respondent stopped operating its store and leased most of the premises to other businesses. The Court noted that "[w]hile the changed circumstances do not necessarily make the controversy moot, they are such that, if known at the time the petition for a writ of certiorari was acted upon, we would not have granted it. For such small embers of controversy that may remain do not present the threat of grave state-federal conflict that we need sit to resolve." 397 U. S., at 224-25. For this reason, and because the record in the case was particularly obscure, the Court dismissed the writ as improvidently granted.

I joined the Per Curiam opinions of the Court in both Toombs and Taggart, as did all the present Members of the Court who were here when those decisions issued. I believe that the reasons for taking a similar course are even more compelling in this case. Petitioners have suspended the very policy against which respondent sought injunctive relief, there are political reasons

unrelated to federal court review why the policy is unlikely to be reinstated, and respondent has represented to us that he is willing to forego the relief he has already obtained. On top of that, we have before us only the limited record of a preliminary injunction proceeding. Precisely because the issues in this case are important and controversial, we would be much better served waiting to resolve them in a real case that merits our review, rather than reaching out to render a decision in a controversy whose continuing existence can barely be perceived.

Sincerely,


W.J.B., Jr.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

January 12, 1983

RE: No. 81-1064 City of Los Angeles v. Lyons

Dear Thurgood, Harry and John:

We four are in dissent in the above. I purposely refrained from asking anyone to undertake the dissent until I'd had a chance to see the circulated Court opinion. Now that I have, Thurgood, would you be willing to try your hand at a dissent?

Sincerely,

Bill

Justice Marshall

Justice Blackmun

Justice Stevens

WJB copy to

*I met my way board of ed
dissent in other case*

FW

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 14, 1983

RE: No. 81-1064 City of Los Angeles v. Lyons

Dear Thurgood:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Justice Marshall

Copies to the Conference

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

From: Justice White

Circulated: 1-10-83

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1064

CITY OF LOS ANGELES, PETITIONER v.
ADOLPH LYONS

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

[January —, 1983]

JUSTICE WHITE delivered the opinion of the Court.

The issue here is whether respondent Lyons satisfied the prerequisites for seeking injunctive and declaratory relief in the federal district court.

I

This case began on February 7, 1977, when respondent, Adolph Lyons, filed a complaint for damages, injunction, and declaratory relief in the United District Court for the Central District of California. The defendants were the City of Los Angeles and four of its police officers. The complaint alleged that on October 6, 1976, at 2 a. m., Lyons was stopped by the defendant officers for a traffic or vehicle code violation and that although Lyons offered no resistance or threat whatsoever, the officers, without provocation or justification, seized Lyons and applied a "chokehold"¹—either the "bar arm con-

¹The police control procedures at issue in this case are referred to as "control holds," "chokeholds," "strangleholds," and "neck restraints." All these terms refer to two basic control procedures: the "carotid" hold and the "bar arm" hold. In the "carotid" hold, an officer positioned behind a subject places one arm around the subject's neck and holds the wrist of that arm with his other hand. The officer, by using his lower forearm and bicep muscle, applies pressure concentrating on the carotid arteries located on the sides of the subject's neck. The "carotid" hold is capable of rendering the subject unconscious by diminishing the flow of oxygenated blood to

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BRW
In due course
Consult a
71

ND

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 14, 1983

MEMORANDUM TO THE CHIEF JUSTICE
AND JUSTICES POWELL, REHNQUIST
AND O'CONNOR

Re: 81-1064 -
City of Los Angeles v. Lyons

I shall shortly be recirculating responding to Thurgood and also eliminating the discussion of the declaratory judgment count, which is the matter which concerned the Chief and Sandra.

BW

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

- pp. 1, 3-6, 8-11, 13-17
and stylistic changes

- From: **Justice White**

Circulated: _____

Recirculated: MAR 17 1983

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1064

CITY OF LOS ANGELES, PETITIONER *v.*
ADOLPH LYONS

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

[March —, 1983]

JUSTICE WHITE delivered the opinion of the Court.

The issue here is whether respondent Lyons satisfied the prerequisites for seeking injunctive relief in the federal district court.

I

This case began on February 7, 1977, when respondent, Adolph Lyons, filed a complaint for damages, injunction, and declaratory relief in the United District Court for the Central District of California. The defendants were the City of Los Angeles and four of its police officers. The complaint alleged that on October 6, 1976, at 2 a. m., Lyons was stopped by the defendant officers for a traffic or vehicle code violation and that although Lyons offered no resistance or threat whatsoever, the officers, without provocation or justification, seized Lyons and applied a "chokehold"¹—either the "bar arm con-

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p. 14 and stylistic
changes throughout
3RD DRAFT

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

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

From: Justice White

SUPREME COURT OF THE UNITED STATES

irculated: 4/18/83

No. 81-1064

Recirculated: _____

CITY OF LOS ANGELES, PETITIONER *v.*
ADOLPH LYONS

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

[April 20, 1983]

JUSTICE WHITE delivered the opinion of the Court.

The issue here is whether respondent Lyons satisfied the prerequisites for seeking injunctive relief in the federal district court.

I

This case began on February 7, 1977, when respondent, Adolph Lyons, filed a complaint for damages, injunction, and declaratory relief in the United District Court for the Central District of California. The defendants were the City of Los Angeles and four of its police officers. The complaint alleged that on October 6, 1976, at 2 a. m., Lyons was stopped by the defendant officers for a traffic or vehicle code violation and that although Lyons offered no resistance or threat whatsoever, the officers, without provocation or justification, seized Lyons and applied a "chokehold"¹—either the "bar arm con-

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 13, 1983

Re: No. 81-1064 - City of Los Angeles v. Lyons

Dear Bill:

I will try my hand at a dissent in this case.

Sincerely,



T.M.

Justice Brennan

cc: Justice Blackmun
Justice Stevens

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

From: **Justice Marshall**

MAR 9 1983

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1064

CITY OF LOS ANGELES, PETITIONER *v.*
ADOLPH LYONS

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

[March —, 1983]

JUSTICE MARSHALL, dissenting.

The District Court found that the City of Los Angeles authorizes its police officers to apply life-threatening chokeholds to citizens who pose no threat of violence, and that respondent, Adolph Lyons, was subjected to such a chokehold. The Court today holds that a federal court is without power to enjoin the enforcement of the City's policy, no matter how flagrantly unconstitutional it may be. Since no one can show that he will be choked in the future, no one—not even a person who, like Lyons, has almost been choked to death—has standing to challenge the continuation of the policy. A court can do no more than award damages to the victims of the policy, and the City is free to continue the policy indefinitely as long as it is willing to pay damages for the injuries and deaths that result. I dissent from this unprecedented and unwarranted approach to standing.

There is plainly a "case or controversy" concerning the constitutionality of the City's chokehold policy. Contrary to what the Court suggests, *ante*, at 13-14, the constitutionality of that policy is directly implicated by Lyons' claim for damages against the City. The complaint clearly alleges that the officer who choked Lyons was carrying out an official policy, and a municipality is liable under 42 U. S. C. § 1983 for the conduct of its employees only if they acted pursuant to such a

STYLISTIC CHANGES THROUGHOUT.

53, 9, 16, 18, 21, 22

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

From: **Justice Marshall**

Circulated: _____

Recirculated: **MAR 15 1983**

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1064

**CITY OF LOS ANGELES, PETITIONER v.
ADOLPH LYONS**

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

[March —, 1983]

JUSTICE MARSHALL, with whom JUSTICE BLACKMUN and
JUSTICE STEVENS join, dissenting.

The District Court found that the City of Los Angeles authorizes its police officers to apply life-threatening chokeholds to citizens who pose no threat of violence, and that respondent, Adolph Lyons, was subjected to such a chokehold. The Court today holds that a federal court is without power to enjoin the enforcement of the City's policy, no matter how flagrantly unconstitutional it may be. Since no one can show that he will be choked in the future, no one—not even a person who, like Lyons, has almost been choked to death—has standing to challenge the continuation of the policy. A court can do no more than award damages to the victims of the policy, and the City is free to continue the policy indefinitely as long as it is willing to pay damages for the injuries and deaths that result. I dissent from this unprecedented and unwarranted approach to standing.

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1, 8-10, 11, 14, 15, 16, 18, 20, 21, 22-25, 26

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

From: **Justice Marshall**

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Recirculated: **MAR 30 1983**

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1064

**CITY OF LOS ANGELES, PETITIONER v.
ADOLPH LYONS**

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

[March —, 1983]

JUSTICE MARSHALL, with whom JUSTICE BRENNAN, JUSTICE BLACKMUN and JUSTICE STEVENS join, dissenting.

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Stylistic changes throughout
pp. 6, 9, 13, 14, 15,

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

From: **Justice Marshall**

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Recirculated: **APR 1 1983**

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-1064

**CITY OF LOS ANGELES, PETITIONER v.
ADOLPH LYONS**

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

[April —, 1983]

JUSTICE MARSHALL, with whom JUSTICE BRENNAN, JUSTICE BLACKMUN and JUSTICE STEVENS join, dissenting.

The District Court found that the City of Los Angeles authorizes its police officers to apply life-threatening chokeholds to citizens who pose no threat of violence, and that respondent, Adolph Lyons, was subjected to such a chokehold. The Court today holds that a federal court is without power to enjoin the enforcement of the City's policy, no matter how flagrantly unconstitutional it may be. Since no one can show that he will be choked in the future, no one—not even a person who, like Lyons, has almost been choked to death—has standing to challenge the continuation of the policy. The City is free to continue the policy indefinitely as long as it is willing to pay damages for the injuries and deaths that result. I dissent from this unprecedented and unwarranted approach to standing.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 21, 1983

Re: No. 81-1064 - City of Los Angeles v. Lyons

Dear Byron:

As you are aware, I shall await the dissent in this case.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 10, 1983

Re: No. 81-1064, City of Los Angeles v. Lyons

Dear Thurgood:

The incipient majority in this case holds additionally that injunctive relief is inappropriate under traditional equitable principles. Would it be advisable to add at least a footnote in opposition to that alternative position?

You have written a good strong dissent, and I am pleased to join it.

Sincerely,



Justice Marshall

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 10, 1983

Re: No. 81-1064, City of Los Angeles v. Lyons

Dear Thurgood:

Please join me in your dissent.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 11, 1983

81-1064 City of Los Angeles v. Lyons

Dear Byron:

Please join me.

Sincerely,

A handwritten signature in cursive script that reads "Lewis".

Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

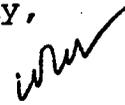
January 13, 1983

Re: 81-1064 City of Los Angeles v. Lyons

Dear Byron:

Please join me.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 13, 1983

Re: 81-1064 - City of Los Angeles v. Lyons

Dear Byron:

I shall await the dissent.

Respectfully,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 10, 1983

Re: 81-1064 - City of Los Angeles
v. Lyons

Dear Thurgood:

Please join me.

Respectfully,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 10, 1983

Re: 81-1064 - City of Los Angeles v. Lyons

Dear Thurgood:

My request that you join me in your dissent is unconditional, but I would be grateful if you would consider making one rather trivial change for me. On page 9 in your discussion of Monell you state that the Court "squarely held" that a municipality is liable only when official policy is involved. I have always thought that this part of the Monell opinion was purely dictum and therefore did not join it. I wonder if you would consider changing the words "squarely held" to read something like "unequivocally concluded" or words to that effect.

Respectfully,



Justice Marshall

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

January 26, 1983

No. 81-1064 City of Los Angeles v. Lyons

Dear Byron,

I am prepared to join your opinion except for that portion which deals with the question of standing for purposes of declaratory relief. As I understand the posture of the case, the only question before us is the propriety of the preliminary injunction issued after the remand. If that is so, then the discussion of standing for declaratory relief is not technically before us.

I am inclined to think you are correct as to the principles governing standing for purposes of obtaining declaratory relief, but would prefer not to reach it. If you could separate out in a separate section the portion dealing with declaratory relief, I could then join the other portions of the opinion.

Sincerely,



Justice White

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 17, 1983

No. 81-1064 City of Los Angeles v.
Lyons

Dear Byron,

Please join me in your latest circulation.

Sincerely,



Justice White

Copies to the Conference