

The Burger Court Opinion Writing Database

Haring v. Prosis

462 U.S. 306 (1983)

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





CHAMBERS OF
THE CHIEF JUSTICE

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

June 7, 1983

Re: No. 81-2169, Haring v. Prosise

Dear Thurgood:

I join.

Regards,

Justice Marshall

Copies to the Conference

(2)

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 1, 1983

No. 81-2169

Haring v. Prosis

Dear Thurgood,

I agree.

Sincerely,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 1, 1983

Re: 81-2169 - Haring v. Prosise

Dear Thurgood,

I essentially agree with Bill Rehnquist's letter to you about your circulating draft. I hope you will find it possible to accommodate him -- and me.

Also, I seriously doubt that we would have granted certiorari in this case in order to review the Court of Appeals' judgment as to what state law is. Normally, we accept the views of the lower federal courts about state-law questions. Shouldn't your draft say so? We should not invite petitions for certiorari raising only challenges to state-law determinations by the Courts of Appeals.

Sincerely yours,



Justice Marshall

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 6, 1983

Re: 81-2169 - Haring v. Prosis

Dear Thurgood,

Please join me.

Sincerely yours,



Justice Marshall

cc: The Conference

cpm

P. 10

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

From: **Justice Marshall**

Circulated: MAY 31 1983

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-2169

GILBERT A. HARING, LIEUTENANT, ARLINGTON COUNTY POLICE DEPARTMENT, ET AL., PETITIONERS *v.* JOHN FRANKLIN PROSISE

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

[June —, 1983]

JUSTICE MARSHALL delivered the opinion of the Court.

The trial court accepted respondent John Franklin Prosise's plea of guilty to one count of manufacturing a controlled substance—phencyclidine. At the hearing at which respondent pleaded guilty, a police officer gave a brief account of the search of respondent's apartment that led to the discovery of material typically used in manufacturing this substance. Thereafter, Prosise brought a damages action under 42 U. S. C. § 1983 in federal district court against petitioner Gilbert A. Haring and the other officers who participated in the search of his apartment. The question presented by this case is whether respondent's § 1983 claim is barred by his prior guilty plea.

I

On April 27, 1978, pursuant to a plea agreement, Prosise pleaded guilty in the Circuit Court for Arlington County, Va., to one count of manufacturing phencyclidine. The Commonwealth then called one witness, Detective Henry Allen of the Arlington County Police Department. Allen testified that on September 7, 1977, he responded to a radio call directing him to an Arlington apartment which turned out to be leased to Prosise. By the time he arrived, two uniformed of-

pp. 5, 7, 14, 16

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

From: **Justice Marshall**

Circulated: _____

Recirculated: **JUN 3 1983**

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-2169

GILBERT A. HARING, LIEUTENANT, ARLINGTON COUNTY POLICE DEPARTMENT, ET AL., PETITIONERS *v.* JOHN FRANKLIN PROSISE

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STYLISTIC CHANGES THROUGHOUT.

PP. 7, 15, 16

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

From: Justice Marshall

Circulated: _____

Recirculated: _____ 1983

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-2169

GILBERT A. HARING, LIEUTENANT, ARLINGTON
 COUNTY POLICE DEPARTMENT, ET AL., PETITION-
 ERS *v.* JOHN FRANKLIN PROSISE

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

[June —, 1983]

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 6, 1983

Re: No. 81-2169 - Haring v. Prosise

Dear Thurgood:

By a separate note, I am joining your opinion in this case.

OK I wonder, however, if you would do a personal favor for me. You, Bill Brennan and I dissented -- I thought rather rigorously -- in Allen v. McCurry. On page 6 of your opinion, lines 1 and 10, appear the words "We rejected" and "We concluded." Would you mind changing the "We" in each instance to "The Court"? I do not wish to be a party to any implication that I have withdrawn from my position in McCurry.

Because Bill Brennan also joined the McCurry dissent, I am sending him a copy of this note.

Sincerely,

Harry

Justice Marshall

cc: Justice Brennan

*Must the
change 6/6*

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 6, 1983

Re: No. 81-2169 - Haring v. Prosise

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 9, 1983

81-2169 Haring v. Prosise

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

lfp/ss

cc: The Conference

71AB

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

October 1, 1982

Re: No. 81-2169 Haring v. Prosise
(List 1, Sheet 15, Sept. 27th Conference)

Dear Chief:

I request that the order granting certiorari in this case not come down on Monday, and that the case be relisted for the Conference on October 8th.

Sincerely,



The Chief Justice

cc: The Conference
Al Stevas, Esq.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 31, 1983

Re: No. 81-2169 Haring v. Prosise

Dear Thurgood:

I agree with Parts I and II of your opinion as now circulated. I have two problems with Part III. Your discussion at pp. 11-12 of whether or not a guilty plea by itself should give rise to any sort of res judicata -- and I agree it should not -- would seem to also foreclose that question when the guilty plea has been preceded by a motion to suppress. I would like to see that question reserved. I also disagree with the rather sweeping language on p. 13 that "our past decisions provide no support for the view that a guilty plea 'waives' antecedent constitutional claims." I think that Tollett and Brady, both of which you cite, hold to the contrary.

If you don't see your way clear to accommodate my concerns, I will join Parts I, II, and concur in the judgment.

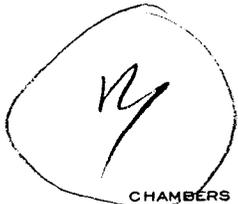
Sincerely,

Wm

Justice Marshall

cc: The Conference

Dwell !!



CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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

June 3, 1983

Re: No. 81-2169 Haring v. Prosise

Dear Thurgood:

Please join me.

Sincerely,

Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 31, 1983

Re: 81-2169 - Haring v. Prosis

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 SANDRA DAY O'CONNOR

June 3, 1983

No. 81-2169 Haring v. Prosis

Dear Thurgood,

Please join me.

Sincerely,

Sandra

Justice Marshall

Copies to the Conference