

# The Burger Court Opinion Writing Database

## *Justices of Boston Municipal Court v. Lydon*

466 U.S. 294 (1984)

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



HA

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

CHAMBERS OF  
THE CHIEF JUSTICE

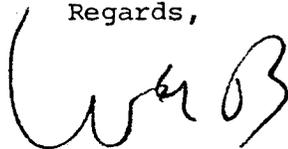
June 20, 1983

Re: 82-1479 - Justices of Boston Municipal Court v. Lydon

Dear Byron:

I join your dissent from denial of cert.

Regards,

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

Justice White

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**

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

JUSTICES OF BOSTON MUNICIPAL COURT *v.*  
MICHAEL LYDON

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

No. 82-1479. Decided June —, 1983

The petition for writ of certiorari is denied.

JUSTICE WHITE, dissenting.

Massachusetts has a two-tier system for the disposition of criminal charges involving infractions of city ordinances, misdemeanors, and specified felonies. A defendant may elect to be tried in a first-tier court. If he is found guilty, he may request a new trial before a second-tier court. He may not, however, seek review in an appellate court. After a conviction in a second-tier court, he may then appeal.

In the instant case, a first-tier court convicted respondent Lydon of breaking into a car. He requested a second trial. At that second-tier trial, he moved for judgment of acquittal because of the insufficiency of the evidence adduced by the State at the first-tier trial. The motion was denied. The Supreme Judicial Court then considered the matter and held that a second-tier trial could take place and was not barred by the Federal Constitution.

Respondent then sought habeas. The District Court for the District of Massachusetts granted the writ. The First Circuit affirmed, over vigorous dissent. It held that the District Court had jurisdiction over respondent's habeas petition challenging the sufficiency of the evidence at the first-tier trial, even though the second-tier trial had not begun. It also held that when a federal habeas corpus court is of the view that the State has failed to produce sufficient evidence to support a conviction at the first-tier trial, even though no state court has declared the evidence insufficient, the Double

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

June 21, 1983

82-1479 Boston Municipal Court v. Lydon

Dear Byron:

Please add my name to your dissent from denial of cert.

Sincerely,

L. F. P.

Justice White

Copies to the Conference

LFP/vde

HAB

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 16, 1983

Re: No. 82-1479 Justices of Boston Municipal  
Court v. Lydon

Dear Byron:

Please join me in your very perceptive and highly literate dissent from denial of certiorari in this case. My only question is whether it was a little shorter than it should have been.

Sincerely,



Justice White

cc: The Conference