

The Burger Court Opinion Writing Database

Solem v. Bartlett

465 U.S. 463 (1984)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

February 13, 1984

Re: No. 82-1253 - Solem, Warden v. Bartlett, John

Dear Thurgood:

I join.

Regards,



Justice Marshall

Copies to the Conference

6

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

February 13, 1984

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SUPREME COURT
JUSTICE BRENNAN

'84 FEB 13 P2:43

No. 82-1253

Solem v. Bartlett

Dear Thurgood,

I agree.

Sincerely,



Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 13, 1984

RECEIVED
SUPREME COURT OF THE U.S.
JUSTICE BYRON R. WHITE

'84 FEB 13 P3:50

Re: 82-1253 - Solem v. Bartlett

Dear Thurgood,

Please join me.

Sincerely,

Justice Marshall

Copies to the Conference

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

From: **Justice Marshall**

Circulated: _____ 3 - 1984

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1253

HERMAN S. SOLEM, WARDEN, AND MARK V.
MEIERHENRY, ATTORNEY GENERAL OF SOUTH
DAKOTA, PETITIONERS *v.* JOHN BARTLETT

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

[February —, 1984]

JUSTICE MARSHALL delivered the opinion of the Court.

On May 29, 1908, Congress authorized the Secretary of the Interior to open 1.6 million acres of the Cheyenne River Sioux Reservation for homesteading. Act of May 29, 1908, ch. 218, 35 Stat. 460 *et seq.* ("Act" or "Cheyenne River Act"). The question presented in this case is whether that Act of Congress diminished the boundaries of the Cheyenne River Sioux Reservation or simply permitted non-Indians to settle within existing Reservation boundaries.

I

In 1979, the State of South Dakota charged respondent John Bartlett, an enrolled member of the Cheyenne River Sioux Tribe, with attempted rape. Respondent pleaded guilty to the charge, and was sentenced to a ten-year term in the state penitentiary at Sioux Falls. After exhausting state remedies, respondent filed a pro se petition for a writ of habeas corpus in the United States District Court for the District of South Dakota. Respondent contended that the crime for which he had been convicted occurred within the Cheyenne River Sioux Reservation, established by Congress in the Act of March 2, 1889, ch. 405, § 4, 25 Stat. 889; that, although on May 29, 1908, Congress opened for settlement by non-Indians the portion of the Reservation on which respond-

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

February 8, 1984

Re: No. 82-1253 - Solem v. Bartlett

Dear Thurgood:

Please join me.

Sincerely,

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

Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

February 8, 1984

82-1253 Solem v. Bartlett

Dear Thurgood:

Please join me.

Sincerely,

L. F. P.

Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 8, 1984

Re: No. 82-1253 Solem v. Bartlett

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

February 6, 1984

Re: 82-1253 - Solem v. Bartlett

Dear Thurgood:

Please join me.

Respectfully,

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

Justice Marshall

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 8, 1984

Re: No. 82-1253 Solem v. Bartlett

Dear Thurgood,

Please join me.

Sincerely,

Sandra

Justice Marshall

Copies to the Conference