

The Burger Court Opinion Writing Database

Palmore v. Sidoti

466 U.S. 429 (1984)

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



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

From: **The Chief Justice**

Circulated: MAR 15 1984

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1734

LINDA SIDOTI PALMORE, PETITIONER *v.*
ANTHONY J. SIDOTI

ON WRIT OF CERTIORARI TO THE DISTRICT COURT OF
APPEAL OF FLORIDA, SECOND DISTRICT

[March —, 1984]

CHIEF JUSTICE BURGER delivered the opinion of the
Court.

We granted certiorari to review a judgment divesting a
natural mother of the custody of her infant child because of
her remarriage to a person of a different race.

I

When petitioner Linda Sidoti ~~Palmore~~ and respondent An-
thony J. Sidoti, both ~~Caucasians~~, were divorced in May 1980
in Florida, the mother was awarded custody of their three-
year-old daughter.

In September 1981 the father sought custody of the child
by filing a petition to modify the prior judgment because of
changed conditions. The change was that the child's mother
was then cohabiting with a Negro, Clarence Palmore, Jr.,
whom she married two months later. Additionally, the fa-
ther made several allegations of instances in which the
mother had not properly cared for the child.

After hearing testimony from both parties and considering
a court counselor's investigative report, the court noted that
the father had made allegations about the child's care, but the
court made no findings with respect to these allegations. On
the contrary, the court made a finding that "there is no issue
as to either party's devotion to the child, adequacy of housing

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3/16
John

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

CHAMBERS OF
THE CHIEF JUSTICE

March 21, 1984

Re: 82-1734 - Palmore v. Sidoti

Dear Bill:

Thank you for your memo of March 20.

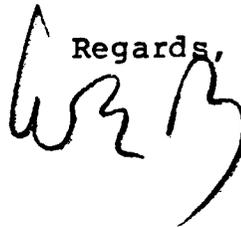
My approach was, as I thought, consistent with declared practice, to decide only the case before us, i.e., narrowly. Here, the true basis of holdings emerges very clearly along with generalizations other than findings. Race was the dispositive basis and that surely is clear. I gave the trial judge credit for not trying to conceal it.

This abundantly supports a holding that is consistent with our narrow question presented, i.e., that the decision of the trial judge rested solely on remarriage to a person of a different race.

This is really confirmed by what you suggest I delete from the bottom of page three: "it is clear the outcome would have been different had petitioner married a caucasian male ...". We do not have a case in which race was one factor, but where it is the only factor.

It may be that your concerns are chiefly semantical, but I will take a hard look and get back to you.

Regards,



Justice Brennan

Copies to the Conference

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

CHANGES AS MARKED:

pp 3-5

From: **The Chief Justice**

Circulated: _____

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1734

LINDA SIDOTI PALMORE, PETITIONER *v.*
ANTHONY J. SIDOTI

ON WRIT OF CERTIORARI TO THE DISTRICT COURT OF
APPEAL OF FLORIDA, SECOND DISTRICT

[April —, 1984]

CHIEF JUSTICE BURGER delivered the opinion of the Court.

We granted certiorari to review a judgment of a state court divesting a natural mother of the custody of her infant child because of her remarriage to a person of a different race.

I

When petitioner Linda Sidoti Palmore and respondent Anthony J. Sidoti, both Caucasians, were divorced in May 1980 in Florida, the mother was awarded custody of their three-year-old daughter.

In September 1981 the father sought custody of the child by filing a petition to modify the prior judgment because of changed conditions. The change was that the child's mother was then cohabiting with a Negro, Clarence Palmore, Jr., whom she married two months later. Additionally, the father made several allegations of instances in which the mother had not properly cared for the child.

After hearing testimony from both parties and considering a court counselor's investigative report, the court noted that the father had made allegations about the child's care, but the court made no findings with respect to these allegations. On the contrary, the court made a finding that "there is no issue as to either party's devotion to the child, adequacy of housing

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 20, 1984

Re: Palmore v. Sidoti, No. 82-1734

Dear Chief:

My recollection of the consensus reached at Conference differs slightly from that reflected in your draft opinion for the Court. As I understood the discussion, it was agreed that race would be an improper consideration in the child custody context, irrespective of whether it was the "dispositive" factor in a court's decision.

To this end, I hope you can make some minor revisions so that I could join your opinion. For example, would you change the "may be a dispositive basis" language at the top of page 5 to "may in any respect be considered as a basis"? And would it not be preferable if the outcome-determinative language at the bottom of page 3 were amended to note that race played an important part in the lower court's judgment? Finally, could not the last paragraph in note 3 be eliminated?

Sincerely,

WJB, Jr.

The Chief Justice

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

April 20, 1984

No. 82-1734

Palmore v. Sidoti

Dear Chief,

I agree. Thank you for your
consideration of my suggestions.

Sincerely,



The Chief Justice

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 22, 1984

Re: 82-1734 - *Palmore v. Sidoti*

Dear Chief,

Please join me.

Sincerely,



The Chief Justice

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cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 19, 1984

Re: No. 82-1734 - Palmore v. Sidoti

Dear Chief:

Please join me.

Sincerely,

Jm.
T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 20, 1984

Re: No. 82-1734, Palmore v. Sidoti

Dear Chief:

Please join me.

Sincerely,

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

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 16, 1984

82-1734 Palmore v. Sidoti

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 27, 1984

Re: No. 82-1734 Palmore v. Sidoti

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 19, 1984

Re: 82-1734 - Palmore v. Sidoti

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 19, 1984

No. 82-1734 Palmore v. Sidoti

Dear Chief,

Please join me.

Sincerely,



The Chief Justice

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