

The Burger Court Opinion Writing Database

Colorado v. Nunez

465 U.S. 324 (1984)

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



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

CHAMBERS OF
THE CHIEF JUSTICE

February 1, 1984

RECORDED
SUPREME COURT
JUSTICE M. WHITE

'84 JAN 33 A10:07

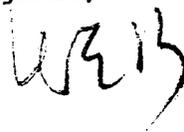
Re: 82-1845 - Colorado v. Nunez

Dear Byron:

I join, but I may overcome my objections to concurring opinions and utter a few well chosen words.

On the other hand, I may file my masterpiece.

Regards,



Justice White

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

February 15, 1984

Re: No. 82-1845 - Colorado v. Nunez

Dear Byron:

Please show me as joining your concurring
opinion, as well as the Per Curiam.

Regards,

A handwritten signature in black ink, consisting of the letters 'L', 'R', and 'B' in a stylized, cursive-like font.

Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

January 30, 1984

No. 82-1845

Colorado v. Nunez

Dear Byron,

Please join me in the per curiam
portion of your circulation of January
26.

Sincerely,



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**

Circulated: JAN 26 1984

Recirculated: _____

RECEIVED
SUPREME COURT, U.S.
JUSTICE DEPARTMENT

'84 JAN 26 P2:48

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1845

COLORADO v. ANTONIO GUADALUPE NUNEZ

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF
COLORADO**

[January —, 1984]

PER CURIAM.

The writ is dismissed as improvidently granted, it appearing that the judgment of the court below rested on independent and adequate state grounds.

JUSTICE WHITE, concurring.

The Court today concludes that the Colorado Supreme Court relied on independent and adequate state grounds when it affirmed the trial court's decision to suppress a quantity of heroin seized during a search of respondent Nunez's house following the State's refusal to disclose the identity of a confidential informant on which the Denver Police Department had relied to establish probable cause for the search. I write not to challenge the Court's determination that the judgment under review rests on independent and adequate state grounds, but to make clear that neither the Federal Constitution nor any decision of this Court requires the result reached by the Colorado Supreme Court.

Before the commencement of his trial on a charge of possession of a controlled substance, Nunez filed a motion to suppress most of the evidence against him on the ground, among others, that the facially valid warrant authorizing the search of his home was not supported by probable cause. In a companion motion, Nunez sought to facilitate his challenge to the legality of the search and his defense on the merits by obtaining disclosure of the names, addresses, and telephone num-

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

From: **Justice White**

Circulated: _____

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1845

**COLORADO, PETITIONER v. ANTONIO
GUADALUPE NUNEZ**

**ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF COLORADO**

[February —, 1984]

PER CURIAM.

The writ is dismissed as improvidently granted, it appearing that the judgment of the court below rested on independent and adequate state grounds.

JUSTICE WHITE, with whom JUSTICE O'CONNOR joins, concurring.

The Court today concludes that the Colorado Supreme Court relied on independent and adequate state grounds when it affirmed the trial court's decision to suppress a quantity of heroin seized during a search of respondent Nunez's house following the State's refusal to disclose the identity of a confidential informant on which the Denver Police Department had relied to establish probable cause for the search. I write not to challenge the Court's determination that the judgment under review rests on independent and adequate state grounds, but to make clear that neither the Federal Constitution nor any decision of this Court requires the result reached by the Colorado Supreme Court.

Before the commencement of his trial on a charge of possession of a controlled substance, Nunez filed a motion to suppress most of the evidence against him on the ground, among others, that the facially valid warrant authorizing the search of his home was not supported by probable cause. In a companion motion, Nunez sought to facilitate his challenge to the

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 30, 1984

Re: No. 82-1845-Colorado v. Nunez

Dear Byron:

I agree with the Per Curiam only.

Sincerely,



T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 30, 1984

Re: No. 82-1845 - Colorado v. Nunez

Dear Byron:

Please join me in the Per Curiam portion of your circulation of January 26.

Sincerely,

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

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 31, 1984

82-1845 Colorado v. Nunez

Dear Byron:

I agree with your Per Curiam in this case.

Sincerely,



Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

RECEIVED
SUPREME COURT
JUSTICE WILLIAM H. REHNQUIST

January 26, 1984

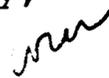
'84 JAN 26 P3:26

Re: No. 82-1845 Colorado v. Nunez

Dear Byron:

Please join me in your Per Curiam in this case.

Sincerely,



Justice White

cc: The Conference

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

From: **Justice Stevens**

Circulated: FEB 15 1984

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1845

**COLORADO, PETITIONER v. ANTONIO
GUADALUPE NUNEZ**

**ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF COLORADO**

[February —, 1984]

JUSTICE STEVENS, concurring.

In view of the growing public interest in the magnitude of our workload,¹ I have on occasion taken note of some of the ways in which the present Court makes use of its resources. Several years ago, I expressed concern about the purely advisory character of individual opinions dissenting from orders denying petitions for certiorari. See *Singleton v. Commissioner*, 439 U. S. 940, 944-945 (1978) (opinion of STEVENS, J.). More recently I have noted that the Court is prone to grant certiorari in cases that do not merit our attention. See *Watt v. Alaska*, 451 U. S. 259, 273-276 (1981) (STEVENS, J., concurring); see also *Watt v. Western Nuclear, Inc.*, — U. S. —, — (1983) (STEVENS, J., dissenting).² Last Term, in *South Dakota v. Neville*, — U. S. — (1983) and *Michigan v. Long*, — U. S. — (1983), the Court decided to enlarge its power to review state court decisions. I dissented from those novel assertions of appellate jurisdiction in part because I was concerned about the unde-

¹See, e. g., Coleman, The Supreme Court of the United States: Mangaging its Caseload to Achieve its Constitutional Purposes, 52 Fordham L. Rev. 1 (1983); Note, Of High Designs: A Compendium of Proposals to Reduce the Workload of the Supreme Court, 97 Harv. L. Rev. 307 (1983).

²See generally Stevens, Some Thoughts on Judicial Restraint, 66 *Judicature* 177, 180 (1982).

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 22

From: Justice Stevens

Circulated: _____
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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1845

COLORADO, PETITIONER *v.* ANTONIO
GUADALUPE NUNEZ

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF COLORADO

[February —, 1984]

JUSTICE STEVENS, concurring.

In view of the growing public interest in the magnitude of our workload,¹ I have on occasion taken note of some of the ways in which the present Court makes use of its resources. Several years ago, I expressed concern about the purely advisory character of individual opinions dissenting from orders denying petitions for certiorari. See *Singleton v. Commissioner*, 439 U. S. 940, 944-945 (1978) (opinion of STEVENS, J.). More recently I have noted that the Court is prone to grant certiorari in cases that do not merit our attention. See *Watt v. Alaska*, 451 U. S. 259, 273-276 (1981) (STEVENS, J., concurring); see also *Watt v. Western Nuclear, Inc.*, — U. S. —, — (1983) (STEVENS, J., dissenting).² Last Term, in *South Dakota v. Neville*, — U. S. — (1983) and *Michigan v. Long*, — U. S. — (1983), the Court decided to enlarge its power to review state court decisions. I dissented from those novel assertions of appellate jurisdiction in part because I was concerned about the undesirability of the rendition of purely advisory opinions by this

¹See, e. g., Coleman, The Supreme Court of the United States: Managing its Caseload to Achieve its Constitutional Purposes, 52 Fordham L. Rev. 1 (1983); Note, Of High Designs: A Compendium of Proposals to Reduce the Workload of the Supreme Court, 97 Harv. L. Rev. 307 (1983).

²See generally Stevens, Some Thoughts on Judicial Restraint, 66 *Judicature* 177, 180 (1982).

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

January 26, 1984

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JUSTICE SANDRA DAY O'CONNOR

'84 JAN 27 A9:38

No. 82-1845 Colorado v. Nunez

Dear Byron,

I agree with your per curiam and join
your concurrence.

Sincerely,

Sandra

Justice White

Copies to the Conference