

The Burger Court Opinion Writing Database

United States v. Cronic

466 U.S. 648 (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

March 13, 1984

Re: 82-660 - United States v. Cronin, Harrison P.

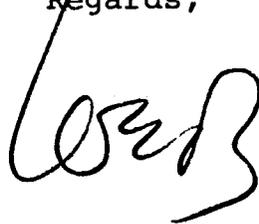
RECEIVED
SUPREME COURT
JUSTICE

'84 MAR 13 P2:53

Dear John:

I join.

Regards,



Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 14, 1984

SUPREME COURT
JUSTICE

'84 MAR 14 P2:26

No. 82-660

United States v. Cronin

Dear John,

Please join me.

Sincerely,

Bill

Justice Stevens

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 13, 1984

REC
SUPREME COURT
JUSTICE

'84 MAR 13 P2:13

Re: 82-660 - United States v. Cronic

Dear John,

I agree.

Sincerely,



Justice Stevens

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

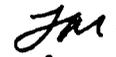
March 14, 1984

Re: No. 82-660-United States v. Cronic

Dear John:

Please join me.

Sincerely,



T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 11, 1984

Re: No. 82-660-United States v. Cronic

Dear John:

I have just reread your opinion in United States v. Cronic along with my dissent in Strickland v. Washington. I conclude that I must withdraw my join in the opinion of the Court in Cronic. I concur only in the judgment.

Sincerely,



T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 14, 1984

Re: No. 82-660, United States v. Cronic

Dear John:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a long horizontal flourish extending to the right.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 23, 1984

82-660 United States v. Cronic
82-1554 Strickland v. Washington

Dear John and Sandra:

Please join me in your respective opinions.

As Bill Rehnquist noted, opinions on this subject - perhaps necessarily - seem abstract and "might mean a number of things to a number of people". I may, therefore, try to write a brief concurring opinion after this argument period is over.

I think we should decide Strickland. It would be helpful for the lower courts to have us apply the new standards. Cronic is different, and a remand is appropriate.

Sincerely,

Lewis

Justice Stevens
Justice O'Connor

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 12, 1984

RECEIVED
SUPREME COURT
JUSTICE WILLIAM H. REHNQUIST

Re: No. 82-660 United States v. Cronin '84 MAR 13 AIO:14

Dear John:

Please join me.

Sincerely,



Justice Stevens

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: MAR 12 1984

Recirculated: _____

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 SUPREME COURT U.S.
 JUSTICE

'84 MAR 12 AM 1:30

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-660

UNITED STATES, PETITIONER *v.*
 HARRISON P. CRONIC

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

[February —, 1984]

JUSTICE STEVENS delivered the opinion of the Court.

Respondent and two associates were indicted on mail fraud charges involving the transfer of over \$9,400,000 in checks between banks in Tampa, Florida, and Norman, Oklahoma, during a four-month period in 1975. Shortly before the scheduled trial date, respondent's retained counsel withdrew. The court appointed a young lawyer with a real estate practice to represent respondent, but allowed him only 25 days for pretrial preparation, even though it had taken the Government over four and one-half years to investigate the case and it had reviewed thousands of documents during that investigation. The two codefendants agreed to testify for the Government; respondent was convicted on 11 of the 13 counts in the indictment and received a 25-year sentence.

The Court of Appeals reversed the conviction because it concluded that respondent did not "have the Assistance of Counsel for his defence" that is guaranteed by the Sixth Amendment to the Constitution.¹ This conclusion was not supported by a determination that respondent's trial counsel

¹The Sixth Amendment provides, in pertinent part:

"In all criminal prosecutions, the accused shall enjoy the right . . . to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

1MB

Revised

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 15, 1984

MEMORANDUM TO THE CONFERENCE

Re: Cases Held for 82-660, United States v. Cronic.

There are three holds for Cronic.

No. 82-1691, Illinois v. Williams, and No. 83-147, Illinois v. Rainge, arise from the same series of events. Williams and Rainge were charged with two counts of murder, two counts of aggravated kidnapping, and one count of rape arising out of the abduction and kidnapping of a man and a woman in East Chicago Heights, Illinois, in 1978. An experienced criminal defense attorney, Archie Weston, was appointed to represent both men. Both were convicted on all counts. In a separate sentencing proceeding, a jury sentenced Williams to death. Rainge received a life sentence for murder and long sentences on the other charge.

Because Williams had been sentenced to death, his appeal went directly to the Illinois Supreme Court. In its original opinion in the case, it affirmed the conviction and sentence, rejecting all of Williams' claims of trial error, as well as his claim that he had received ineffective assistance of counsel. Williams relied largely on specific errors of counsel, including the failure to move for a new trial and to suppress various evidence.

Shortly thereafter, while Williams' petition for rehearing was pending before the Illinois Supreme Court, an unrelated disciplinary matter involving Weston came before the court, in which the court disbarred Weston for unethical conduct in administering an estate. The court then directed copies of the record in the disbarment case to be forwarded to the parties to the criminal appeal, who had apparently been unaware of the disbarment case.

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 12, 1984

RECEIVED
SUPREME COURT
JUSTICE SANDRA DAY O'CONNOR

'84 MAR 13 A10:14

No. 82-660 U. S. v. Cronic

Dear John,

Please join me.

Sincerely,



Justice Stevens

Copies to the Conference

76AB

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 17, 1984

Re: No. 82-1691, Illinois v. Williams
No. 83-147, Illinois v. Rainge
(Cases held for United States v. Cronic, No. 82-660)

MEMORANDUM TO THE CONFERENCE

John has circulated a memo in these cases recommending denial of the petitions, which had been held for Cronic. Unlike John, I would GVR both cases in light of Strickland as well as Cronic.

As I read the Illinois Supreme Court's decision in No. 82-1691, which the intermediate appellate court simply relied on in No. 83-147, the court followed neither the presumed-prejudice analysis discussed in Cronic nor the prejudicial-deficient-performance analysis set forth in Strickland. Rather, the court's reasoning on the ineffectiveness claim, contained in full on pp. 12a-14a of the App. to Pet. for Cert. in No. 82-1691, adopts a third approach. That approach is to adopt an irrebuttable presumption, not simply of prejudice, but of unprofessional judgment as well as prejudice.

In the critical part of its opinion, the State Supreme Court first recited the allegations of attorney error, which it had found not to amount to ineffective assistance in its first opinion in Williams' case. It then simply concluded, without further analysis, that, in the light of the unique circumstances of pending disbarment proceedings, it could not characterize the asserted errors as professional misjudgments, and the court therefore ordered a new trial. The court specifically stated that it was foregoing application of the usual ineffectiveness tests in Williams' case, since "we cannot characterize his performance as actual incompetence or as of such a low caliber as to reduce the trial to a farce or sham." Id., at 14a. In short, what the court seems to have done is to conclude, without inquiry either into the actual reasons for