

The Burger Court Opinion Writing Database

Winston v. Lee

470 U.S. 753 (1985)

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



HA1

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

CHAMBERS OF
THE CHIEF JUSTICE

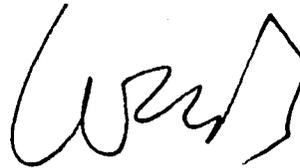
April 11, 1984

RE: 83-1334 - Winston, Sheriff and Aubry Davis, Jr.
v. Rudolph Lee, Jr.

Dear Bill:

I join your dissent from denial of certiorari.

Regards,



Justice Rehnquist

Copies to the conference

HAB

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 29, 1984

Re: No. 83-1334 - Winston v. Lee

Dear Bill:

Please join me in your dissent.

Sincerely,



Justice Rehnquist

cc: The Conference

Deny - The case is a fact-bound application of Schmerber. Also I ~~think~~ think that the opinion below was probably correct. Surgery that requires general anesthesia is not "fairly minor in character." It is not rare for general anesthesia to prove harmful or even lethal to patients.

David

1st DRAFT

- : The Chief Justice
- Justice Brennan
- Justice White
- Justice Marshall
- Justice Blackmun
- Justice Powell
- Justice Stevens
- Justice O'Connor

From: Justice Rehnquist

Circulated: MAR 28 1984

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

ANDREW J. WINSTON, SHERIFF AND AUBRY M. DAVIS, JR. v. RUDOLPH LEE, JR.

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

No. 83-1334. Decided March —, 1984

JUSTICE REHNQUIST, dissenting from the denial of certiorari.

In the early morning hours of July 18, 1982, a Richmond storekeeper observed an armed man approaching his store. The storekeeper drew his gun and opened fire. The approaching stranger returned the fire and during the ensuing shoot-out, both men were hit by gunfire. Within minutes after the shooting, Richmond police apprehended respondent about eight blocks from the store. Respondent was suffering from a gunshot wound to the left side of his chest and was taken to the same hospital emergency room where the storekeeper had been brought. The storekeeper, upon seeing respondent, exclaimed, "That's the man who shot me."

After respondent's explanation for the gunshot wound proved unconvincing, he was charged with four felony counts arising out of the attempted robbery of the storekeeper. The Commonwealth Attorney for the City of Richmond filed a motion to compel evidence to recover surgically the bullet in respondent's chest. After several hearings on the state's motion, at which the Richmond Circuit Court heard testimony from a forensic scientist and the surgeon who would remove the bullet, the court ruled that the bullet could be properly removed, since the surgery was a minor procedure that would be done in a hospital under medical conditions that would protect respondent's health. At the time the Circuit Court made its ruling, it was believed that the bullet was only one-half centimeter below the skin and could be removed with the use of local anesthesia.

Still

Deny

LFP

3/28

P. 1.

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

From: **Justice Rehnquist**

Circulated: APR 12 1984

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

ANDREW J. WINSTON, SHERIFF AND AUBRY M.
DAVIS, JR. *v.* RUDOLPH LEE, JR.

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

No. 83-1334. Decided April —, 1984

JUSTICE REHNQUIST, with whom THE CHIEF JUSTICE and
JUSTICE BLACKMUN join, dissenting from the denial of
certiorari.

In the early morning hours of July 18, 1982, a Richmond storekeeper observed an armed man approaching his store. The storekeeper drew his gun and opened fire. The approaching stranger returned the fire and during the ensuing shoot-out, both men were hit by gunfire. Within minutes after the shooting, Richmond police apprehended respondent about eight blocks from the store. Respondent was suffering from a gunshot wound to the left side of his chest and was taken to the same hospital emergency room where the storekeeper had been brought. The storekeeper, upon seeing respondent, exclaimed, "That's the man who shot me."

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