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Wallace v. Jaffree

472 U.S. 38 (1985)

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
JUSTICE HARRY A. BLACKMUN

March 28, 1984

Re: No. 83-804 - Board of School Commissioners of
Mobile County, Alabama v. Jaffree
No. 83-812 - Wallace v. Jaffree
No. 83-929 - Smith v. Jaffree

Dear Sandra:

For what it is worth, I prefer your first option.

Sincerely,



Justice O'Connor

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 29, 1984

Re: Nos. 83-812 & 83-929 Wallace v. Jaffree

Dear Sandra:

Because I voted to note probable jurisdiction across the board, I would prefer the second of the proposed orders which you have circulated.

Sincerely,
WRM

Justice O'Connor

cc: The Conference

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

From: Justice Stevens

Circulated: 3-2-71

Recirculated: _____

83-812 - Wallace v. Jaffree; 83-929 - Smith v. Jaffree

JUSTICE STEVENS, concurring.

In his amended complaint in this case, appellee sought (1) a judgment holding two statutory provisions, Ala. Code § 16-1-20.1, Ala. Code § 16-1-20.2, and certain allegedly State sanctioned, though not statutorily sanctioned, school prayer practices invalid under the Establishment Clause of the First Amendment, applicable to the States under the Fourteenth Amendment, and (2) an injunction against the enforcement of these statutory provisions and non-statutory practices. The District Court dismissed the amended complaint. The Court of Appeals reversed the District Court's judgment in relevant part. It held the challenged statutory provisions and non-statutory practices unconstitutional and ordered the District Court to enter an injunction. Appellants invoke this Court's appellate jurisdiction under 28 U.S.C. § 1254(2) regarding the Court of Appeals' judgments on the statutory provisions.

As I understand it, the order this Court enters today is a holding that Ala. Code § 16-1-20.2 is invalid as repugnant to the Establishment Clause of the First Amendment, applicable to the

HAB

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

March 26, 1984

MEMORANDUM TO THE CONFERENCE

There are at least two principle variations on an appropriate order noting jurisdiction in these cases.

83-812 and 83-929 - In these cases probable jurisdiction is noted limited to Question 1 in the jurisdictional statements. The cases are consolidated and a total of one hour is allotted for oral argument. The judgment with respect to the other issues presented by the appeals is affirmed.

WSP

83-804 - The petition for a writ of certiorari is denied.

no vote
C-H-2

83-812 and 83-929 - In these cases probable jurisdiction is noted limited to Question 1 in the jurisdictional statements. The cases are consolidated and a total of one hour is allotted for oral argument.

✓
R

83-804 - The petition for a writ of certiorari is denied.

? If we adopt the second approach we would presumably affirm as to the other questions when we announce our decision on the moment of silence. I am inclined to prefer the first option disposing of the remaining questions immediately, but it is not clear what the Conference prefers.

Sincerely,

Sandra

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