

The Burger Court Opinion Writing Database

Ohio v. Johnson

467 U.S. 493 (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

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

CHAMBERS OF
THE CHIEF JUSTICE

May 30, 1984

'84 MAY 30 P4:08

Re: 83-904 - Ohio v. Johnson

Dear Bill:

I join.

Regards,



Justice Rehnquist

Copies to the Conference

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

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SUPREME COURT, U.S.
JUSTICE MARSHALL

From: Justice Brennan

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84 JUN -6 A9 31

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-904

OHIO, PETITIONER *v.* KENNETH M. JOHNSON

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

[June —, 1984]

JUSTICE BRENNAN, concurring in part and dissenting in part.

In my view, the judgment of the Ohio Supreme Court with respect to the aggravated robbery charge rests on independent and adequate state grounds. I agree with the Court, however, that continued prosecution of respondent on the charge of murder after respondent pleaded guilty to the charge of involuntary manslaughter was not barred by the Double Jeopardy Clause.

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SUPREME COURT, U.S.
JUSTICE MARSHALL 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

34 MAY 25 AM 34

May 25, 1984

Re: 83-904 - Ohio v. Johnson

Dear Bill,

I agree.

Sincerely yours,



Justice Rehnquist
Copies to the Conference
cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 24, 1984

Re: No. 83-904 - Ohio v. Johnson

Dear John:

Please join me in your dissent.

Sincerely,

JM

T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 29, 1984

Re: No. 83-904 - Ohio v. Johnson

Dear Bill:

I go along.

Sincerely,

H.A.

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SUPREME COURT, U.S.
JUSTICE MARSHALL

'84 MAY 29 10:13

Justice Rehnquist

cc: The Conference

1

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

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JUSTICE MARSHALL

20 MAY 25 AM 34

May 25, 1984

83-904 Ohio v. Johnson

Dear Bill:

Please join me.

Sincerely,



Justice Rehnquist

lfp/ss

cc: The Conference

RECEIVED
SUPREME COURT, U.S.
JUSTICE MARSHALL

Changes 8-9

'84 MAY 29 AIO:14

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

From: Justice Rehnquist

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-904

OHIO, PETITIONER *v.* KENNETH M. JOHNSON

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF OHIO

[May —, 1984]

JUSTICE REHNQUIST delivered the opinion of the Court.

Respondent Kenneth Johnson was indicted by an Ohio grand jury for four offenses, ranging from murder to grand theft, as a result of the killing of Thomas Hill and the theft of property from Hill's apartment. Respondent offered to plead guilty to charges of involuntary manslaughter and grand theft, but pleaded not guilty to charges of murder and aggravated robbery. Over the State's objection, the trial court accepted the "guilty" pleas to the lesser offenses, and then granted respondent's motion to dismiss the two most serious charges on the ground that because of his guilty pleas, further prosecution on the more serious offenses was barred by the double jeopardy prohibitions of the Fifth and Fourteenth Amendments. This judgment was affirmed on appeal through the Ohio state courts, and we granted certiorari. — U. S. — (1984). We now reverse the judgment of the Supreme Court of Ohio and hold that prosecuting respondent on the two more serious charges would not constitute the type of "multiple prosecution" prohibited by the Double Jeopardy Clause.

Thomas Hill was shot to death in his apartment in the City of Mentor-on-the Lake, a city northeast of Cleveland on Lake Erie. Several weeks later, a county grand jury indicted re-

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Handwritten notes and signatures, including a large 'X' over some text.

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

83-904 - Ohio v. Kenneth M. Johnson

From: Justice Stevens
MAY 23 1984

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JUSTICE STEVENS, dissenting.

A conviction based on a plea of guilty has the same legal effect as a conviction based on a jury's verdict. The conviction in this case authorized the State of Ohio to place respondent in prison for several years. As the Court expressly recognizes, "the Double Jeopardy Clause prohibits the prosecution of a defendant for a greater offense when he has already been ... convicted on the lesser included offense." Ante, at 8. That statement fits this case precisely. Since it is a correct statement of the law, I would affirm the judgment of the Supreme Court of Ohio insofar as it denied the State the right to prosecute respondent on the charge of murder.¹

Handwritten signature or initials.

¹As far as the charge of aggravated robbery is concerned, it is perfectly obvious that the judgment of the Ohio Supreme Court rests on the adequate and independent state ground that it was an "allied offense of similar import" to theft within the meaning of the Ohio rule that prevents prosecution for two such offenses. The Court's cavalier disregard for the state law basis for this aspect of the judgement of the Supreme Court of Ohio is totally unprecedented.

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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

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-904

OHIO, PETITIONER *v.* KENNETH M. JOHNSON

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF OHIO

[May —, 1984]

JUSTICE STEVENS, *dissenting.*

A conviction based on a plea of guilty has the same legal effect as a conviction based on a jury's verdict. The conviction in this case authorized the State of Ohio to place respondent in prison for several years. As the Court expressly recognizes, "the Double Jeopardy Clause prohibits the prosecution of a defendant for a greater offense when he has already been . . . convicted on the lesser included offense." *Ante*, at 8. That statement fits this case precisely. Since it is a correct statement of the law, I would affirm the judgment of the Supreme Court of Ohio insofar as it denied the State the right to prosecute respondent on the charge of murder.*

*with whom
Marshall, J.*

*As far as the charge of aggravated robbery is concerned, it is perfectly obvious that the judgment of the Ohio Supreme Court rests on the adequate and independent state ground that it was an "allied offense of similar import" to theft within the meaning of the Ohio rule that precludes prosecution for two such offenses. The Court's cavalier disregard for the state law basis for this aspect of the judgment of the Supreme Court of Ohio is totally unprecedented.

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

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SUPREME COURT, U.S.
JUSTICE MARSHALL

74 MAY 25 19 56

May 24, 1984

No. 83-904 Ohio v. Johnson

Dear Bill,

Please join me.

Sincerely,



Justice Rehnquist

Copies to the Conference