

The Burger Court Opinion Writing Database

Bennett v. New Jersey

470 U.S. 632 (1985)

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



(n)

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

CHAMBERS OF
THE CHIEF JUSTICE

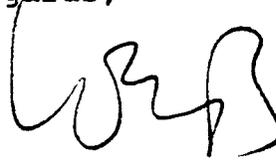
March 4, 1985

Re: No. 83-2064 - Bell v. New Jersey

Dear Sandra,

I join.

Regards,



Justice O'Connor

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 15, 1985

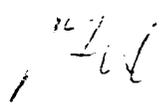
No. 83-2064

Bell v. New Jersey

Dear Sandra,

I agree.

Sincerely,



Justice O'Connor

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WJ

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 18, 1985

83-2064 - Bell v. New Jersey

Dear Sandra,

Please join me in your circulating
proposed opinion for the Court.

Sincerely yours,



Justice O'Connor

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 19, 1985

Re: No. 83-2064-Bell v. New Jersey

Dear Sandra:

I await the dissent.

Sincerely,



T.M.

Justice O'Connor

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 28, 1985

Re: No. 83-2064-Bell v. New Jersey

Dear John:

Please join me in your dissent.

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 4, 1985

Re: No. 83-2064, Bell v. New Jersey

Dear Sandra:

Please join me.

Sincerely,



Justice O'Connor

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 1, 1985

83-2064 Bell v. New Jersey

Dear Sandra:

Please add at the end of your opinion that I took no part in the consideration or decision of this case.

Sincerely,

A handwritten signature in cursive script that reads "Lewis".

Justice O'Connor

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

February 19, 1985

Re: No. 83-2064 Bell v. New Jersey

Dear Sandra,

Please join me.

Sincerely,
WHR

Justice O'Connor

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

From: **Justice Stevens**

Circulated: FEB 27 1985

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2064

**T. H. BELL, SECRETARY OF EDUCATION,
PETITIONER *v.* NEW JERSEY**

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

[March —, 1985]

JUSTICE STEVENS, dissenting.

The Elementary and Secondary Education Act of 1965, 79 Stat. 27, was a part of the broader program that President Johnson characterized as the "war on poverty."¹ Title I of the Act authorized the expenditure of large sums of federal money to improve the education of children in low-income areas. The statute, however, did not contain a specific definition of the schools that would qualify for assistance under the program. It merely stated that "payments under this subchapter will be used for programs and projects . . . (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families. . . ." 20 U. S. C. §241e(a)(1).

As the case comes to us, the underlying issue in this case is whether 10 of the public schools in Newark, New Jersey²

¹Cf. S. Rep. No. 146, 89th Cong., 1st Sess. 4 (1965) ("Poverty will no longer be a bar to learning, and learning shall offer an escape from poverty. We will neither dissipate the skills of our people, nor deny them the fullness of a life informed by knowledge. And we will liberate each young mind—in every part of this land—to reach the furthest limits of thought and imagination") (statement of President Johnson).

²The original dispute between the parties involved 10 elementary schools and 3 high schools. If the Court of Appeals' disposition were accepted, the determination of ineligibility for 2 elementary schools and for 1 high school would no longer be at issue. See *State of New Jersey, Depart-*

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

B. 1, 9, 10

From: **Justice Stevens**

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2064

T. H. BELL, SECRETARY OF EDUCATION,
PETITIONER *v.* NEW JERSEY

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

[March —, 1985]

JUSTICE STEVENS, dissenting.

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with school
Justice Marshall
Justice

Opinion

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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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Recirculated: MAR 7 1985

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2064

WILLIAM J. BENNETT, SECRETARY OF EDUCATION,
PETITIONER *v.* NEW JERSEY

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

[March —, 1985]

JUSTICE STEVENS, with whom JUSTICE MARSHALL joins,
dissenting.

The Elementary and Secondary Education Act of 1965, 79 Stat. 27, was a part of the broader program that President Johnson characterized as the "war on poverty."¹ Title I of the Act authorized the expenditure of large sums of federal money to improve the education of children in low-income areas. The statute, however, did not contain a specific definition of the schools that would qualify for assistance under the program. It merely stated that "payments under this subchapter will be used for programs and projects . . . (A) which are designed to meet the special educational needs of educationally deprived children in school attendance areas having high concentrations of children from low-income families. . . ." 20 U. S. C. § 241e(a)(1) (1976 ed.).

As the case comes to us, the underlying issue is whether 10 of the public schools in Newark, New Jersey,² that received

¹ Cf. S. Rep. No. 146, 89th Cong., 1st Sess., 4 (1965) ("Poverty will no longer be a bar to learning, and learning shall offer an escape from poverty. We will neither dissipate the skills of our people, nor deny them the fullness of a life informed by knowledge. And we will liberate each young mind—in every part of this land—to reach the furthest limits of thought and imagination") (statement of President Johnson).

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To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2064

T. H. BELL, SECRETARY OF EDUCATION,
PETITIONER *v.* NEW JERSEY

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

[February —, 1985]

JUSTICE O'CONNOR delivered the opinion of the Court.

The issue presented is whether substantive provisions of the 1978 Amendments to Title I of the Elementary and Secondary Education Act apply retroactively for determining if Title I funds were misused during the years 1970-1972. This case was previously before the Court, and we then held that the Federal Government may recover misused funds from States that provided assurances that federal grants would be spent only on eligible programs. *Bell v. New Jersey*, 461 U. S. 773 (1983) (*Bell I*). We expressly declined, however, to address the retroactive effect of substantive provisions of the 1978 Amendments. *Id.*, at 781, n. 6, 782, and n. 7. On remand from our decision, the Court of Appeals for the Third Circuit held that the standards of the 1978 Amendments should apply to determine if funds were improperly expended in previous years. 724 F. 2d 34 (1983). We granted certiorari, 467 U. S. — (1984), and we now reverse.

I

Title I of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, 79 Stat. 27, as amended, 20 U. S. C. § 241a *et seq.* (1976 ed.), provided federal grants-in-aid to support compensatory education for disadvantaged children in

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 28, 1985

No. 83-2064 Bell v. New Jersey

MEMORANDUM TO THE CONFERENCE

I do not plan to circulate further changes in this opinion unless those in the majority advise me that they would like to see some addition in response to the dissent.

Sincerely,



Stylistic Changes Throughout

Y.P. 17

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: Justice O'Connor

Circulated: _____

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Mar 5 '85

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2064

WILLIAM J. BENNETT, SECRETARY OF EDUCATION, PETITIONER *v.* NEW JERSEY

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

[March —, 1985]

JUSTICE O'CONNOR delivered the opinion of the Court.

The issue presented is whether substantive provisions of the 1978 Amendments to Title I of the Elementary and Secondary Education Act apply retroactively for determining if Title I funds were misused during the years 1970-1972. This case was previously before the Court, and we then held that the Federal Government may recover misused funds from States that provided assurances that federal grants would be spent only on eligible programs. *Bell v. New Jersey*, 461 U. S. 773 (1983) (*Bell I*). We expressly declined, however, to address the retroactive effect of substantive provisions of the 1978 Amendments. *Id.*, at 781, n. 6, 782, and n. 7. On remand from our decision, the Court of Appeals for the Third Circuit held that the standards of the 1978 Amendments should apply to determine if funds were improperly expended in previous years. 724 F. 2d 34 (1983). We granted certiorari, 467 U. S. — (1984), and we now reverse.

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Stylistic Changes Throughout

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Justice Blackmun
Justice Powell
Justice Rehnquist
Justice Stevens

From: **Justice O'Connor**

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 83-2064

WILLIAM J. BENNETT, SECRETARY OF EDUCATION, PETITIONER v. NEW JERSEY

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

[March —, 1985]

JUSTICE O'CONNOR delivered the opinion of the Court.

The issue presented is whether substantive provisions of the 1978 Amendments to Title I of the Elementary and Secondary Education Act apply retroactively for determining if Title I funds were misused during the years 1970-1972. This case was previously before the Court, and we then held that the Federal Government may recover misused funds from States that provided assurances that federal grants would be spent only on eligible programs. *Bell v. New Jersey*, 461 U. S. 773 (1983). We expressly declined, however, to address the retroactive effect of substantive provisions of the 1978 Amendments. *Id.*, at 781, n. 6, 782, and n. 7. On remand from our decision, the Court of Appeals for the Third Circuit held that the standards of the 1978 Amendments should apply to determine if funds were improperly expended in previous years. 724 F. 2d 34 (1983). We granted certiorari, 469 U. S. — (1984), and we now reverse.

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Title I of the Elementary and Secondary Education Act of 1965, Pub. L. 89-10, 79 Stat. 27, as amended, 20 U. S. C. § 241a *et seq.* (1976 ed.), provided federal grants-in-aid to support compensatory education for disadvantaged children in

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