

# The Burger Court Opinion Writing Database

## *Williams v. Vermont*

472 U.S. 14 (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  
THE CHIEF JUSTICE

March 29, 1985

Re: 84-592 - Williams v. Vermont

MEMORANDUM TO THE CONFERENCE:

I conclude to reverse in this case.

Regards,

A handwritten signature in dark ink, appearing to be 'WB', is written below the typed name 'Regards,'.

W

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

CHAMBERS OF  
THE CHIEF JUSTICE

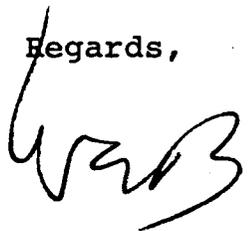
May 22, 1985

Re: No. 84-592 - Williams v. Vermont

Dear Byron:

I join.

Regards,



Justice White

Copies to the Conference

1985 MAY 22

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To: The Chief Justice  
Justice White  
Justice Marshall ✓  
Justice Blackmun ✓  
Justice Powell  
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From: **Justice Brennan**

**MAY 29**

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 84-592

**NORMAN WILLIAMS AND SUSAN LEVINE, APPELLANTS v. VERMONT ET AL.**

**ON APPEAL FROM THE SUPREME COURT OF VERMONT**

[May —, 1985]

**JUSTICE BRENNAN, concurring.**

I join the Court's opinion for the reasons stated therein and in my concurring opinion in *Zobel v. Williams*, 457 U. S. 55, 65 (1982). General application of distinctions of the kind made by the Vermont statute would clearly, though indirectly, threaten the "federal interest in free interstate migration." *Id.*, at 66. In addition, the statute makes distinctions among residents that are not "supported by a valid state interest independent of the discrimination itself." *Id.*, at 70.

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From: **Justice White**

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1st DRAFT

## SUPREME COURT OF THE UNITED STATES

NORMAN WILLIAMS AND SUSAN LEVINE *v.*  
VERMONT ET AL.

ON APPEAL FROM THE SUPREME COURT OF VERMONT

No. 84-592. Decided December —, 1984

JUSTICE WHITE, dissenting.

The State of Vermont imposes a four per cent tax on the in-state purchase of a motor vehicle by a Vermont resident. Vt. Stat. Ann., Tit. 32, § 8903(a). An equivalent use tax is imposed on the book value of cars purchased elsewhere and then registered in Vermont. § 8903(b). The use tax is reduced by the amount of sales tax paid on purchase, if the purchaser was a Vermont resident at that time. § 8911(9). Thus, if a Vermont resident purchases a car in, say, Wisconsin, and pays a sales tax at the time, he does not have to pay the use tax upon his return to Vermont. On the other hand, a Wisconsin resident purchasing the same car in Wisconsin and paying the same tax, would be assessed the use tax were he then to move to Vermont and register the car there. See *Leverson v. Conway*, — Vt. —, — A. 2d —, dismissed for want of a substantial federal question, — U. S. — (1984).

Appellants both purchased cars in other States, paid the required sales tax, and later moved to Vermont and registered their cars there. Each was assessed a use tax of four per cent of the "low book value" of their cars. They unsuccessfully challenged the tax in the Vermont courts under the Equal Protection, Commerce, and Privileges and Immunities Clauses of the Federal Constitution.

The Vermont Supreme Court rejected appellants' claims simply by reference to its decision in *Leverson v. Conway*, *supra*. In *Leverson*, the court concluded that the use tax did not infringe the right to travel, because the burden resulted not from moving to Vermont, but from registering one's car

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Justice O'Connor

From: Justice White

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~~BRW~~  
~~Please join me~~  
~~JW~~

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 84-592

NORMAN WILLIAMS AND SUSAN LEVINE,  
APPELLANTS *v.* VERMONT ET AL.

ON APPEAL FROM THE SUPREME COURT OF VERMONT

[April —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

The State of Vermont collects a use tax when cars are registered with it. The tax is not imposed if the car was purchased in Vermont and a sales tax is paid. The tax is also reduced by the amount of any sales or use tax paid to another State if that State would afford a credit for taxes paid to Vermont in similar circumstances. The credit is available only if the registrant was a Vermont resident at the time he paid the taxes. Appellants, who bought cars outside of Vermont before becoming residents of that State, challenge the failure to grant them a similar credit. We agree that this failure denies them the equal protection of the laws.

I

Appellants' complaint, which was dismissed before an answer was filed, sets out the following facts. In December 1980, appellant Norman Williams purchased a new car in Illinois, paying a five percent sales tax. Three months later, he moved to Vermont, bringing the car with him. He subsequently attempted to register the car in Vermont without paying the required use tax. The Vermont Department of Motor Vehicles refused to register the car. Williams responded by suing in the Federal District Court for the District of Vermont, which, relying on 28 U. S. C. § 1341, dismissed his complaint. Williams then paid the tax, which came to \$172, unsuccessfully sought a refund from the De-

*Join but  
wait*

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STYLISTIC CHANGES THROUGHOUT;  
and pp. 5-7, 9, 11-12, 14

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To: The Chief Justice  
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Justice O'Connor

From: **Justice White**

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2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 84-592

NORMAN WILLIAMS AND SUSAN LEVINE, APPELLANTS  
*v.* VERMONT ET AL.

ON APPEAL FROM THE SUPREME COURT OF VERMONT

[May —, 1985]

JUSTICE WHITE delivered the opinion of the Court.

The State of Vermont collects a use tax when cars are registered with it. The tax is not imposed if the car was purchased in Vermont and a sales tax has been paid. The tax is also reduced by the amount of any sales or use tax paid to another State if that State would afford a credit for taxes paid to Vermont in similar circumstances. The credit is available, however, only if the registrant was a Vermont resident at the time he paid the taxes. Appellants, who bought cars outside of Vermont before becoming residents of that State, challenge the failure to grant them a similar credit. We agree that this failure denies them the equal protection of the laws.

### I

Appellants' complaint, which was dismissed before an answer was filed, sets out the following facts. In December 1980, appellant Norman Williams purchased a new car in Illinois, paying a five percent sales tax. Three months later, he moved to Vermont, bringing the car with him. He subsequently attempted to register the car in Vermont without paying the required use tax. The Vermont Department of Motor Vehicles refused to register the car. Williams responded by suing in the Federal District Court for the District of Vermont, which, relying on 28 U. S. C. § 1341, dismissed his complaint. Williams then paid the tax, which

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 10, 1985

MEMORANDUM TO THE CONFERENCE

Re: Case held for Williams v. Vermont, No. 84-592

One case was held for Williams: Leverson v. Conway, No. 84-315. The Court dismissed the appeal for want of a substantial federal question on October 9, 1984. What has been held is a petition for rehearing.

Leverson was decided by the Vermont Supreme Court the same day as Williams. It arises on almost identical facts and presents the same issue. The state court decided Williams merely by reference to its opinion in Leverson.

In light of the reversal in Williams, I recommend that we call for a response with an eye to granting the petition for rehearing, vacating the judgment below, and remanding for reconsideration in light of Williams.



*Conway  
8/1/85  
4 Feb 85*

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7/A

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 10, 1985

MEMORANDUM TO THE CONFERENCE

Re: Case held for Williams v. Vermont, No. 84-592

I have been advised that we already have a response to the petition for rehearing in this case. Hence, I recommend that we grant the petition, vacate the judgment below and remand in light of Williams.

bw

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 28, 1985

Re: No. 84-592-Norman Williams and Susan Levine  
v. Vermont, et al.

Dear Byron:

Please join me.

Sincerely,

*JM.*  
T.M.

Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

November 30, 1984

Re: No. 84-592, Williams v. Vermont

Dear Byron:

Please join me in your dissent.

Sincerely,

*Harry*

Justice White

cc: The Conference

NOV 30 1984

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711

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

November 30, 1984

Re: No. 84-592, Williams v. Vermont

Dear Byron:

Please join me in your dissent.

Sincerely,



Justice White

cc: The Conference

[To Justice White Only:]

Is there a little inconsistency between the third and fourth sentences of your dissenting opinion? The third sentence speaks in terms of credit for the amount of sales tax paid elsewhere. The fourth sentence seems to imply complete exemption from the Vermont tax.



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HAC

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

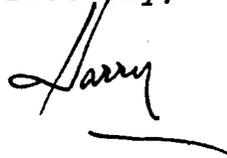
April 1, 1985

Re: No. 84-592, Williams v. Vermont

Dear Bill and Sandra:

The three of us are in dissent in this case. If it is all right with each of you, I shall try my hand at a dissent in due course.

Sincerely,



Justice Rehnquist

Justice O'Connor

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 23, 1985

Re: No. 84-592, Williams v. Vermont

Dear Byron:

When I can get around to it, I shall try my hand at a dissent in this case.

Sincerely,



Justice White

cc: The Conference

APR 23 1985

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To: The Chief Justice  
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Justice Stevens  
Justice O'Connor

From: Justice Blackmun

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 84-592

**NORMAN WILLIAMS AND SUSAN LEVINE, APPELLANTS  
v. VERMONT ET AL.**

ON APPEAL FROM THE SUPREME COURT OF VERMONT

[May —, 1985]

JUSTICE BLACKMUN, dissenting.

The Court in this case draws into question the constitutionality of a statute that was not intended to discriminate against anyone, does not discriminate against appellants, and, for all that appears, never has been applied in a discriminatory fashion against anyone else. Nevertheless, the Court has imagined a fanciful hypothetical discrimination, and then has threatened that the statute will violate equal protection unless the Vermont Supreme Court or the Vermont Legislature rejects the Court's conjecture.

As the Court recognizes, Vermont's use tax is designed to help defray the State's cost for building and maintaining its roads. Generally speaking, if one purchases an automobile in Vermont, one pays a sales tax on the purchase. If one purchases a car elsewhere but registers it in Vermont, the use tax is assessed. The end result is that likely users of the State's roads are assessed a tax for their use. The overlapping series of credits and exemptions built into this vehicle tax system are designed to resolve a number of less-common cases that fall outside the typical pattern of a Vermonter's purchase of a car either in Vermont or elsewhere. However complex and redundant, the exceptions and credits accomplish two related legitimate purposes: they facilitate the flow of interstate commerce by ensuring that residents and non-residents alike are not penalized for purchasing cars in a foreign State, and they protect against the possibility that

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Page References Changed  
and page 2

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

From: **Justice Blackmun**

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3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 84-592

**NORMAN WILLIAMS AND SUSAN LEVINE, APPELLANTS  
v. VERMONT ET AL.**

ON APPEAL FROM THE SUPREME COURT OF VERMONT

[June —, 1985]

JUSTICE BLACKMUN, with whom JUSTICE REHNQUIST and JUSTICE O'CONNOR join, dissenting.

The Court in this case draws into question the constitutionality of a statute that was not intended to discriminate against anyone, does not discriminate against appellants, and, for all that appears, never has been applied in a discriminatory fashion against anyone else. Nevertheless, the Court has imagined a fanciful hypothetical discrimination, and then has threatened that the statute will violate equal protection unless the Vermont Supreme Court or the Vermont Legislature rejects the Court's conjecture.

As the Court recognizes, Vermont's use tax is designed to help defray the State's cost for building and maintaining its roads. Generally speaking, if one purchases an automobile in Vermont, one pays a sales tax on the purchase. If one purchases a car elsewhere but registers it in Vermont, the use tax is assessed. The end result is that likely users of the State's roads are assessed a tax for their use. The overlapping series of credits and exemptions built into this vehicle tax system are designed to resolve a number of less-common cases that fall outside the typical pattern of a Vermonter's purchase of a car either in Vermont or elsewhere. However complex and redundant, the exceptions and credits accomplish two related legitimate purposes: they facilitate the flow of interstate commerce by ensuring that residents and non-residents alike are not penalized for purchasing cars in a for-

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HAB

June 10, 1985

*84-315, Lemmon v. Conway*

Dear Byron:

Re: Case held for No. 84-592, Williams v. Vermont

I thought that the response already had been called for and in fact was filed on February 4. At least, I have a copy in my files. It is called "Reply to Petition for Rehearing."

Sincerely,

HAB

Justice White

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

November 30, 1984

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Re: No. 84-592 Williams v. Vermont

Dear Byron:

You have persuaded me to Note, so please add my name to your dissent. If noted, we should grant the petition for rehearing in Leverson v. Conway, No. 84-315, which presents the same issue, and set the cases together.

Sincerely,

*Lewis*

Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 23, 1985

84-592 Williams v. Levine

Dear Byron:

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

Sincerely,

Justice White

lfp/ss

cc: The Conference

84 APR 23 P2:35

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CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 21, 1985

Re: No. 84-592 Williams v. Vermont

Dear Harry,

Please join me in your dissenting opinion.

Sincerely,

*WHR*

Justice Blackmun

cc: The Conference

84 MAY 21 6 3 40

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

November 30, 1984

Re: 84-592 - Williams v. Vermont

Dear Byron:

Please join me.

Respectfully,



Justice White

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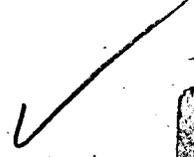
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STEVENS

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CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

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



April 23, 1985

Re: 84-592, Williams v. Vermont

Dear Byron:

Please join me.

Respectfully,

Justice White  
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APR 23 1985

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

April 1, 1985

No. 84-592 Williams v. Vermont

Dear Harry,

I will be delighted to await your dissenting opinion in this case. As you expressed your position in Conference, I agreed with it.

Sincerely,



Justice Blackmun

cc: Justice Rehnquist

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

April 23, 1985

84-592 Williams and Levine v. Vermont

Dear Byron,

I will await the dissent in this case.

Sincerely,

*Sandra*

Justice White

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

May 20, 1985

No. 84-592 Williams and Levine v. Vermont

Dear Harry,

Please join me in your dissenting opinion.

Sincerely,



Justice Blackmun

84 MAY 31 1985

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