

The Burger Court Opinion Writing Database

*Department of Treasury, Bureau of
Alcohol, Tobacco and Firearms v. Galioto*
477 U.S. 556 (1986)

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



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

From: **The Chief Justice**

Circulated: MAY 19 1986

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1904

UNITED STATES DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO AND FIRE-
ARMS, APPELLANT *v.* ANTHONY J. GALIOTO

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

[May —, 1986]

CHIEF JUSTICE BURGER delivered the opinion of the
Court.

The question presented is whether Congress violated the
the Fifth Amendment in prohibiting the sale of firearms to
persons who have been involuntarily committed to mental in-
stitutions without providing any administrative procedure to
allow exceptions for certain cases.

I

A

In October 1982, appellee attempted to purchase a firearm
at Ray's Sport Shop in North Plainfield, New Jersey. The
sport shop gave appellee a standard questionnaire, which
asked *inter alia*: "Have you ever been adjudicated mentally
defective or have you ever been committed to a mental in-
stitution?" When appellee answered "yes" to this question, the
store refused to sell him a gun by reason of 18 U. S. C.
§ 922(d)(4), which makes it unlawful for a licensed dealer in
firearms "to sell . . . any firearm . . . to any person knowing
or having reasonable cause to believe that such person . . .
has been adjudicated as a mental defective or had been com-
mitted to any mental institution."¹

¹ Federal firearms laws also forbids "any person . . . who has been ad-
judicated as a mental defective or who has been committed to a mental in-

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

STAYED THROUGHOUT

PP 5-10

From: **The Chief Justice**

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1904

UNITED STATES DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO
AND FIREARMS, APPELLANT *v.*
ANTHONY J. GALIOTO

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In October 1982, appellee attempted to purchase a firearm at Ray's Sport Shop in North Plainfield, New Jersey. The sport shop gave appellee a standard questionnaire, which asked *inter alia*: "Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?" When appellee answered "yes" to this question, the store refused to sell him a gun by reason of 18 U. S. C. § 922(d)(4), which makes it unlawful for a licensed dealer in firearms "to sell . . . any firearm . . . to any person knowing or having reasonable cause to believe that such person . . .

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

SUBSTANTIAL CHANGES THROUGHOUT

From: **The Chief Justice**

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3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1904

UNITED STATES DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO
AND FIREARMS, APPELLANT *v.*
ANTHONY J. GALIOTO

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF NEW JERSEY

[June —, 1986]

CHIEF JUSTICE BURGER delivered the opinion of the Court.

We noted probable jurisdiction to decide whether Congress may, consistent with the Fifth Amendment, forbid all involuntarily committed former mental patients to purchase firearms while permitting some felons to do so.

In 1982 appellee attempted to purchase a firearm at Ray's Sport Shop in North Plainfield, New Jersey. The sport shop gave appellee a standard questionnaire, which asked *inter alia*: "Have you ever been adjudicated mentally defective or have you ever been committed to a mental institution?" Appellee had been involuntarily committed to a mental hospital for a period of several weeks in 1971, and accordingly answered "yes" to this question. The store then refused to sell him a gun by reason of 18 U. S. C. § 922(d)(4), which makes it unlawful for a licensed dealer in firearms "to sell . . . any firearm . . . to any person knowing or having reasonable cause to believe that such person . . . has been adjudicated as a mental defective or had been committed to any mental institution." Federal firearms laws also forbid "any person . . . who has been adjudicated as a mental defective or who has been committed to a mental institution . . . to ship or transport any firearm or ammunition in interstate or foreign com-

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

From: **The Chief Justice**

Circulated: _____

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P4

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1904

UNITED STATES DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO
AND FIREARMS, APPELLANT *v.*
ANTHONY J. GALIOTO

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To: Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
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Justice O'Connor

From: **The Chief Justice**

Circulated: _____

Recirculated: JUN 2 1986

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-1904

UNITED STATES DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO
AND FIREARMS, APPELLANT *v.*
ANTHONY J. GALIOTO

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THE DISTRICT OF NEW JERSEY

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 8, 1986

No. 84-1904

U.S. Department of Treasury, etc.
v. Galioto

Dear Byron, Thurgood and Lewis,

We four are in dissent in the
above. Would you, Thurgood, be willing
to do the dissent?

Beil

Justice White

Justice Marshall

Justice Powell

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 21, 1986

No. 84-1904

United States Department
of the Treasury, BATF v. Galisto

Dear Chief,

I shall await the dissent.

Sincerely,

Bill

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

June 26, 1986

No. 84-1904

U.S. Dept. of the Treasury,
Bureau of Alcohol, Tobacco
& Firearms v. Galioto

Dear Chief,

Consider me as filing a graveyard
dissent in the above case. The
complaint indicates that the plaintiff
sought compensatory, as well as
injunctive relief, and hence I'm not
persuaded that the case is moot.

Sincerely,



The Chief Justice

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 21, 1986

84-1904 - United States Department
of the Treasury, BATF v. Galioto

Dear Chief,

I shall await the dissent.

Sincerely yours,



The Chief Justice

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 23, 1986

84-1904 - United States Department
of the Treasury v. Galioto

Dear Chief,

Please join me.

Sincerely yours,



The Chief Justice

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 20, 1986

Re: No. 84-1904-U.S. Dept. of Treasury v. Galioto

Dear Chief:

In due course, I shall circulate a dissent in
this one.

Sincerely,

Jm.

T.M.

The Chief Justice

cc: The Conference

11
25
36 1-43

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

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 24, 1986

Re: No. 84-1904-United States Dept. of Treasury v.
Anthony J. Galioto

Dear Chief:

Please join me.

Sincerely,

JM.
T.M.

The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 24, 1986

Re: No. 84-1904, U.S. Department of Treasury v. Galioto

Dear Chief:

I join your third draft circulated June 23. Inasmuch as this is a federal case, and not a state one, should the first two words of the last line of the opinion be replaced with "consistent."

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 20, 1986

84-1904 U.S. Department of Treasury v. Galioto

Dear Chief:

I will await the dissent.

Sincerely,

Lewis

The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 24, 1986

84-1904 United States v. Galisto

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 23, 1986

Re: No. 84-1904 Department of Treasury v. Galioto

Dear Chief,

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 23, 1986

Re: 84-1904 - U.S. Department of the Treasury
v. Galioto

Dear Chief:

Please join me.

Sincerely,



The Chief Justice

cc: The Conference

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CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

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

May 27, 1986

Re: 84-1904 - United States Department of
the Treasury v. Galioto

Dear Chief:

Please join me.

Respectfully,

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 23, 1986

Re: 84-1904 - United States Department of
the Treasury, Bureau of Alcohol,
Tobacco and Firearms v. Galioto

Dear Chief:

Please join me.

Respectfully,



The Chief Justice

Copies to the Conference



CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

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

June 2, 1986

No. 84-1904 U. S. Dept. of Treasury v. Galioto

Dear Chief,

Please join me.

Sincerely,

The Chief Justice

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 23, 1986

No. 84-1904 U.S. Dept. of Treasury v. Galioto

Dear Chief,

I am still with you.

Sincerely,



The Chief Justice

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