

The Burger Court Opinion Writing Database

Pennsylvania Bureau of Correction v. United States Marshals Service

474 U.S. 34 (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

November 15, 1985

CHAMBERS OF
THE CHIEF JUSTICE

Re: 84-489 - Penna. Bureau of Corrections v. U.S.
Marshal's Service, et. al.

Dear Lewis:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'W. Powell', written in a cursive style.

Justice Powell

Copies to the Conference

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

①

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

November 1, 1985

No. 84-489

Pennsylvania Bureau of Correction
v. U.S. Marshals Service

Dear Lewis,
I agree.

Sincerely,

Bill

Justice Powell

Copies to the Conference

4

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 1, 1985

Re: 84-489 - Pennsylvania Bureau of
Correction v. United States Marshals Service

Dear Lewis,

Please join me.

Sincerely yours,



Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 1, 1985

Re: No. 84-489-Pennsylvania Bureau of Correction v.
United States Marshals Service

Dear Lewis:

Please join me.

Sincerely,



T.M.

Justice Powell

cc: The Conference

14

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 1, 1985

Re: No. 84-489, Pennsylvania v. U.S. Marshals Service

Dear Lewis:

Please join me.

Sincerely,



Justice Powell

cc: The Conference

10/31

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

From: Justice Powell

Circulated: _____

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-489

PENNSYLVANIA BUREAU OF CORRECTION, PETITIONER *v.* UNITED STATES MARSHALS SERVICE ET AL.

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

[November —, 1985]

JUSTICE POWELL delivered the opinion of the Court.

The question presented is whether a United States district court may compel the United States Marshals Service to transport state prisoners to the federal courthouse to testify in an action brought under 42 U. S. C. § 1983 by a state prisoner against county officials.

I

In June 1980, Richard Garland brought suit under 42 U. S. C. § 1983 against various Philadelphia County officials in the United States District Court in the Eastern District of Pennsylvania, alleging that he had been beaten and harassed by the defendant deputy sheriffs and prison guards. At the time Garland filed this suit, he was incarcerated in the Philadelphia County jail, but was subsequently transferred to a state facility. The District Court assigned the action to a Magistrate for disposition on the merits.

In December 1982, the Magistrate issued writs of habeas corpus *ad testificandum* to produce five witnesses, including plaintiff Garland. At that time, Garland was in a state correctional facility in Huntingdon, approximately 220 miles from Philadelphia. The other four witnesses were all confined in state facilities over 100 miles from Philadelphia. The orders directed the Wardens of the state facilities to

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

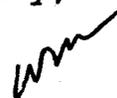
November 1, 1985

Re: No. 84-489 Pennsylvania Bureau of Correction v.
United States Marshals Service

Dear Lewis,

Please join me.

Sincerely,



Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

November 4, 1985

Re: 84-489 - Pennsylvania Bureau of
Correction v. U.S. Marshals
Service

Dear Lewis:

Although we may not be too far apart because you have saved the situation in which exceptional circumstances might justify directing the marshal to transport state prisoners, I would like to try my hand at a separate opinion because I think I may have a somewhat broader view of the Court's authority to issue orders to a marshal than is reflected in the opinion. Just as an example, I think a federal judge has the authority to order a marshal to drive him to the airport on official business, even though I'm not sure there is express statutory authority for that type of work. I'll try not to hold you up too long.

Respectfully,



Justice Powell

Copies to the Conference

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

From: **Justice Stevens**

Circulated: NOV 12 1985

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-489

PENNSYLVANIA BUREAU OF CORRECTION, PETITIONER *v.* UNITED STATES MARSHALS SERVICE ET AL.

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

[November —, 1985]

JUSTICE STEVENS, dissenting.

This is an exceptional case. It involves a dispute between the Marshal's Office and a federal District Court. Ordinarily, the Marshals and the Federal Courts which they serve have a close and harmonious relationship. To be sure, the special responsibilities of the Marshal—an office that serves both the Executive and Judicial branches—can give rise to administrative problems.¹ Customarily such problems are resolved on a voluntary, co-operative basis, either in the individual court or Circuit, or in high level discussions between the Executive and Judicial branches.² Open disputes

¹See Report by the Comptroller General, U. S. Marshals' Dilemma: Serving Two Branches of Government (1982).

²See, *e. g.*, U. S. Marshals Service, Oversight Hearing before the Subcommittee on Courts, Civil Liberties and the Administration of Justice of the House Committee on the Judiciary, 99th Cong., 1st Sess. 3 (1985) (citing agreement between the Attorney General and the Chief Justice regarding court security); *ibid.*, at 26 (citing agreement between the Attorney General and the Chief Justice regarding contract guard program); Hearings on H. R. 7039 before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the House Committee on the Judiciary, 97th Cong., 2d Sess. 175 (1982) (citing agreement between the Attorney General and the Chief Justice regarding court security and the allocation of Marshals).

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

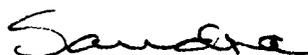
November 6, 1985

No. 84-489 Pennsylvania Bureau of Correction
v. U. S. Marshals Service

Dear Lewis,

You have written your opinion in a way that leaves open some possible reliance on the All-Writs Act in "exceptional circumstances." This may be all that is appropriate to say but I am inclined for the present, to see what John writes before deciding whether to join.

Sincerely,



Justice Powell

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

November 13, 1985

No. 84-489 Pennsylvania Bureau of Corrections v.
U. S. Marshals Service

Dear Lewis,

Please join me in your opinion.

Sincerely,

Sandra

Justice Powell

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