

The Burger Court Opinion Writing Database

Smalis v. Pennsylvania

476 U.S. 140 (1986)

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

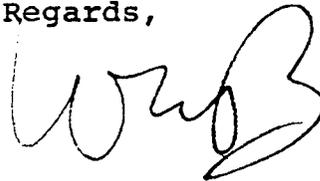
April 22, 1986

RE: 85-227 - Smalis v. Pennsylvania

Dear Byron:

I join.

Regards,



Justice White

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

April 21, 1986

No. 85-227

Smalis v. Pennsylvania

Dear Byron,

Please join me.

Sincerely,



Justice White

Copies to the Conference

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

From: Justice White

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SUPREME COURT OF THE UNITED STATES

No. 85-227

**DESPINA SMALIS AND ERNEST SMALIS, PETITIONERS
v. PENNSYLVANIA**

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF PENNSYLVANIA

[April —, 1986]

JUSTICE WHITE delivered the opinion of the Court.

At the close of the prosecution's case-in-chief, the trial court dismissed certain charges against petitioners on the ground that the evidence presented was legally insufficient to support a conviction. The question presented is whether the Double Jeopardy Clause bars the prosecution from appealing this ruling.

I

Petitioners, husband and wife, owned a building housing a restaurant and some apartments that burned under suspicious circumstances, killing two of the tenants. Petitioners were charged with various crimes in connection with this fire, including criminal homicide, reckless endangerment, and causing a catastrophe.¹ They opted for a bench trial, and at the close of the prosecution's case-in-chief challenged the sufficiency of the evidence by filing a demurrer pursuant to Pa. R. Crim. P. 1124(a)(1).² The trial court sustained pe-

¹ Various misdemeanor charges were also filed against petitioners, as well as charges relating to a previous fire in another building that they owned. These other charges are not relevant to this petition.

² Pa. R. Crim. P. 1124, 42 Pa. Cons. Stat. (1985 Supp.), provides in relevant part:

"Challenges to Sufficiency of the Evidence

(a) A defendant may challenge the sufficiency of the evidence to sustain a conviction of one or more of the offenses charged by a:

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

From: **Justice White**

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 85-227

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 21, 1986

Re: No. 85-227-Smalis v. Pennsylvania

Dear Byron:

Please join me.

Sincerely,

T.M.
T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 21, 1986

Re: No. 85-227, Smalis v. Pennsylvania

Dear Byron:

Please join me.

Sincerely,

H.A.B.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 22, 1986

85-227 Smalis v. Pennsylvania

Dear Byron:

Please join me.

Sincerely,

Lewis

Justice White

lfp/ss

cc: The Conference



CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

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

May 1, 1986

Re: No. 85-227 Smalis v. Pennsylvania

Dear Byron,

Please join me.

Sincerely,

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

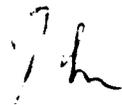
April 21, 1986

Re: 85-227 - Smalis v. Pennsylvania

Dear Byron:

Please join me.

Respectfully,



Justice White

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C

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 23, 1986

No. 85-227 Smalis v. Pennsylvania

Dear Byron,

Please join me.

Sincerely,

Sandra

Justice White

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