

# The Burger Court Opinion Writing Database

*United States v. Dion*

476 U.S. 734 (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

June 4, 1986

85-246 - United States v. Dion

Dear Thurgood:

I join.

Regards,

Justice Marshall

Copies to the Conference

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

May 27, 1986

No. 85-246

United States v. Dion

Dear Thurgood,

I agree.

Sincerely,

*Bill*

Justice Marshall

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 26, 1986

85-246 - United States v. Dion

Dear Thurgood,

Please join me.

Sincerely yours,



Justice Marshall

Copies to the Conference

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

From: Justice Marshall

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1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 85-246

UNITED STATES, PETITIONER *v.* DWIGHT DION, SR.

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

[May —, 1986]

JUSTICE MARSHALL delivered the opinion of the Court.

Respondent Dwight Dion, Sr., a member of the Yankton Sioux Tribe, was convicted of shooting four bald eagles on the Yankton Sioux reservation in South Dakota in violation of the Endangered Species Act, 16 U. S. C. § 1531 *et seq.*<sup>1</sup> The District Court dismissed before trial a charge of shooting a golden eagle in violation of the Bald Eagle Protection Act, 16 U. S. C. § 668 *et seq.* (Eagle Protection Act). Dion was also convicted of selling carcasses and parts of eagles and other birds in violation of the Eagle Protection Act and the Migratory Bird Treaty Act, 16 U. S. C. § 703 *et seq.* The Court of Appeals for the Eighth Circuit affirmed all of Dion's convictions except those for shooting bald eagles in violation of the Endangered Species Act. 752 F. 2d 1261, 1270 (1985) (*en banc*); 762 F. 2d 674, 694 (1985) (panel opinion). As to those, it stated that Dion could be convicted only upon a jury determination that the birds were killed for commercial purposes. 752 F. 2d, at 1270. It also affirmed the District Court's dis-

<sup>1</sup>The jury verdict at trial did not conclusively establish that Dion is a member of the tribe or that the killings took place on the reservation. See 752 F. 2d 1261, 1270 (1985) (indicating that those questions remain open for determination on remand). Both parties, however, agree in this Court that Dion is a member of the Yankton Sioux Tribe. Brief for the United States 10; Brief for Respondent 2. Dion testified at trial that the birds were all killed on the reservation, the Eighth Circuit assumed that fact for the purposes of its opinion, and we shall do the same.

STYLISTIC CHANGES THROUGHOUT

APR 2-3

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

From: Justice Marshall

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 85-246

UNITED STATES, PETITIONER *v.* DWIGHT DION, SR.

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

[June —, 1986]

JUSTICE MARSHALL delivered the opinion of the Court.

Respondent Dwight Dion, Sr., a member of the Yankton Sioux Tribe, was convicted of shooting four bald eagles on the Yankton Sioux reservation in South Dakota in violation of the Endangered Species Act, 87 Stat. 884, as amended, 16 U. S. C. § 1531 *et seq.* (1982 ed. and Supp. II).<sup>1</sup> The District Court dismissed before trial a charge of shooting a golden eagle in violation of the Bald Eagle Protection Act, 54 Stat. 250, 16 U. S. C. § 668 *et seq.* (Eagle Protection Act). Dion was also convicted of selling carcasses and parts of eagles and other birds in violation of the Eagle Protection Act and the Migratory Bird Treaty Act, 40 Stat. 755, as amended, 16 U. S. C. § 703 *et seq.* The Court of Appeals for the Eighth Circuit affirmed all of Dion's convictions except those for shooting bald eagles in violation of the Endangered Species Act. 752 F. 2d 1261, 1270 (1985) (*en banc*); 762 F. 2d 674, 694 (1985) (panel opinion). As to those, it stated that Dion could be convicted only upon a jury determination that the

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

**STYLISTIC CHANGES THROUGHOUT**

From: **Justice Marshall**

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3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 85-246

UNITED STATES, PETITIONER *v.* DWIGHT DION, SR.

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

[June —, 1986]

JUSTICE MARSHALL delivered the opinion of the Court.

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 27, 1986

Re: No. 85-246, United States v. Dion

Dear Thurgood:

Please join me.

Sincerely,

*H.A.B.*

Justice Marshall

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 26, 1986

85-246 United States v. Dion

Dear Thurgood:

Please join me.

Sincerely,



Justice Marshall

lfp/ss

cc: The Conference

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CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

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

May 28, 1986

Re: 85-246 - United States v. Dion

Dear Thurgood:

Please join me.

Sincerely,

A handwritten signature in cursive, likely belonging to Justice Marshall.

Justice Marshall

cc: The Conference



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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

May 23, 1986

Re: 85-246 - United States v. Dion

Dear Thurgood:

Please join me.

Respectfully,

Justice Marshall

Copies to the Conference

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

May 23, 1986

No. 85-246 United States v. Dion

Dear Thurgood,

Please join me.

Sincerely,



Justice Marshall

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