

SUPREME COURT REPORTER



Volume 84

Pages 1-983

Covering

VOLUMES 375-376 U. S. REPORTS

*Cases Argued and Determined
in the*

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1963

ST. PAUL, MINN.
WEST PUBLISHING CO.
1965

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JUSTICES

OCTOBER TERM, 1963

CHIEF JUSTICE

HON. EARL WARREN

ASSOCIATE JUSTICES

HON. HUGO L. BLACK

HON. WILLIAM O. DOUGLAS

HON. TOM C. CLARK

HON. JOHN M. HARLAN

HON. WILLIAM J. BRENNAN, Jr.

HON. POTTER STEWART

HON. BYRON R. WHITE

HON. ARTHUR J. GOLDBERG

ATTORNEY GENERAL

HON. ROBERT F. KENNEDY¹

SOLICITOR GENERAL

HON. ARCHIBALD COX

CLERK

JOHN F. DAVIS

REPORTER OF DECISIONS

HENRY PUTZEL, Jr.²

MARSHAL

T. PERRY LIPPITT

LIBRARIAN

HELEN NEWMAN

*

¹ Resigned Sept. 3, 1964.

² Appointed, effective Feb. 17, 1964. Walter Wyatt retired Dec. 31, 1963.

ALLOTMENT OF THE JUSTICES

DISTRICT OF COLUMBIA CIRCUIT

CHIEF JUSTICE EARL WARREN, of California.

Appointed Chief Justice by President Eisenhower;
took office October 5, 1953.

FIRST CIRCUIT.

Maine, Massachusetts, New Hampshire, Rhode Island, and Puerto Rico.

JUSTICE ARTHUR J. GOLDBERG, of Illinois.

Appointed by President Kennedy; took office October 1, 1962.

SECOND CIRCUIT.

Connecticut, New York, and Vermont.

JUSTICE JOHN M. HARLAN, of New York.

Appointed by President Eisenhower; took office March 28, 1955.

THIRD CIRCUIT.

Delaware, New Jersey, Pennsylvania, and Virgin Islands.

JUSTICE WILLIAM J. BRENNAN, Jr., of New Jersey.

Appointed by President Eisenhower; took office October 16, 1956.

FOURTH CIRCUIT.

Maryland, North Carolina, South Carolina, Virginia, and West Virginia.

CHIEF JUSTICE EARL WARREN, of California.

Appointed Chief Justice by President Eisenhower;
took office October 5, 1953.

FIFTH CIRCUIT.

Alabama, Florida, Georgia, Louisiana, Mississippi, Texas, and Canal Zone.

JUSTICE HUGO L. BLACK, of Alabama.

Appointed by President Roosevelt; took office August 19, 1937.

SIXTH CIRCUIT.

Kentucky, Michigan, Ohio, and Tennessee.

JUSTICE POTTER STEWART, of Ohio.

Appointed by President Eisenhower; took office October 14, 1958.

ALLOTMENT OF THE JUSTICES

SEVENTH CIRCUIT.

Illinois, Indiana, and Wisconsin.

JUSTICE TOM C. CLARK, of Texas.

Appointed by President Truman; took office August 24, 1949.

EIGHTH CIRCUIT.

Arkansas, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

JUSTICE BYRON R. WHITE, of Colorado.

Appointed by President Kennedy; took office April 16, 1962.

NINTH CIRCUIT.

Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

JUSTICE WILLIAM O. DOUGLAS, of Connecticut.

Appointed by President Roosevelt; took office April 17, 1939.

TENTH CIRCUIT.

Colorado, Kansas, New Mexico, Oklahoma, Utah, and Wyoming.

JUSTICE BYRON R. WHITE, of Colorado.

Appointed by President Kennedy; took office April 16, 1962.

ASSIGNMENT OF MR. JUSTICE REED

ORDER

October 7, 1963

An order of the Chief Justice designating and assigning Mr. Justice Reed (Retired) to perform judicial duties in the United States Court of Claims beginning October 7, 1963, and ending June 30, 1964, and for such further time as may be required to complete unfinished business, pursuant to 28 U.S.C. § 294(a), is ordered entered on the minutes of this Court, pursuant to 28 U.S.C. § 295.

APPOINTMENT OF MR. MICHAEL RODAK, JR.

ORDER

March 23, 1964

It is ordered that Michael Rodak, Jr., be, and he hereby is, appointed a Deputy Clerk of this Court.

SUPREME COURT OF THE UNITED STATES

PROCEEDINGS HONORING MR. JUSTICE DOUGLAS

April 20, 1964

Present: Mr. Chief Justice Warren, Mr. Justice Black, Mr. Justice Douglas, Mr. Justice Clark, Mr. Justice Harlan, Mr. Justice Brennan, Mr. Justice Stewart, Mr. Justice White, and Mr. Justice Goldberg.

Mr. Attorney General Kennedy addressed the Court as follows:

"Mr. Chief Justice:

"May it please the Court. On behalf of the members of this Bar and of lawyers throughout the United States, I come here to join in paying tribute to Justice Douglas, who is celebrating the completion of 25 years of distinguished service on the Court. It is an unusual circumstance that just 2 years ago we were paying similar tribute to Mr. Justice Black.

"Justice Douglas came to the Court in the year 1939. He was able to draw upon a unique background, bringing with him knowledge and experience that were greatly needed in the United States at that time. His expertness in the fields of economic regulation and administrative law were of particular value and enabled him to make a vital contribution to the progress we were seeking to achieve during those very difficult days.

"I would also like to add a brief personal note. I think it was my father who was responsible for bringing Justice Douglas to Washington a number of years ago, when I was about 6 years old. He came on the Court when I was 13, and I remember that bright day even now. He has been a great friend of our family for many years.

"I also remember vividly my trips with him around the world—not merely because of what I gained personally, but primarily because I witnessed the way in which he presented a picture of the United States to the people of other countries. He was a man who was able to tell them, in ways they understood, of our

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views and beliefs. He could speak with wisdom of our laws and explain our system of government. He could talk to them also, in every-day terms, of many other matters in which they were deeply interested—how much cotton was produced per acre in South Carolina or how much wheat in Nebraska. The many who have seen him in his travels, read his books, and heard his friendly words have been moved and inspired.

"He has been a great credit not only to this Court, but as a citizen of the United States and of the world.

"Thank you, Mr. Chief Justice."

The Chief Justice said:

"Mr. Attorney General:

"It is thoughtful of you to publicly remind us of this important milestone in the life of the Court, and it is generous of you to speak of our Brother Douglas in such felicitous terms. We heartily join you both in the timing and in the fervor of your remarks. Twenty-five years of devoted service to the highest Court of the Nation should not be passed over without comment. Only 18 of the 94 men appointed to the Court have achieved that distinction, and only 5 of them—Holmes, McReynolds, Van Devanter, Black and Douglas—were appointed in this century.

"When Mr. Justice Douglas, succeeding Justice Brandeis, took his seat on the Court, Mr. Justice McReynolds was the Senior Justice. Appointed in 1914, he had sat for 7 years with Chief Justice Edward D. White, who was appointed an Associate in 1894. Thus, as evidence of the continuing nature of the Court, it should be appropriate to point out that Mr. Justice Douglas served with one who had in turn sat for 7 years with Justice White, who was appointed 70 years ago. This continuity of service is one of the strong factors which brings stability and tradition to our Court.

"It has been said that in a cyclic way every basic problem of the American people eventually reaches the Supreme Court. If this is true—and there is evidence to sustain it—Mr. Justice Douglas has served through more than one of these cycles. The last quarter of a century has taken him through depression, hot wars, cold wars, and social and economic revolutions. He has written for the Court or in dissent in many hundreds of cases. His work is a vital part of the jurisprudence of the Court. It is recorded in more than 70 volumes of the United States Supreme Court Reports. His opinions will be read and studied so long as the Constitution is the guiding light of our Nation.

"This is neither the time nor the place to appraise his work. That will be done by lawyers, scholars, courts and the people in the fullness of time. One does not try to determine the record

SUPREME COURT OF THE UNITED STATES

of a swimmer when he is in midstream, particularly when he is swimming against unknown currents. Mr. Justice Douglas is in midstream. We know that by nature he recoils against merely swimming downstream. He will continue to swim strongly and purposefully.

"We join with you, Mr. Attorney General, and with the Bar in wishing him continued success and happiness on the Court for many years to come."

375 UNITED STATES REPORTS

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375 UNITED STATES REPORTS—Continued

U.S.	S.Ct.			U.S.	S.Ct.			U.S.	S.Ct.			U.S.	S.Ct.			U.S.	S.Ct.			U.S.	S.Ct.		
Pg.	Vol.	Pg.		Pg.	Vol.	Pg.		Pg.	Vol.	Pg.		Pg.	Vol.	Pg.		Pg.	Vol.	Pg.		Pg.	Vol.	Pg.	
883	84	154		904	84	197		919	84	271		937	84	359		954	84	444		977	84	496	
883	84	157		905	84	193		919	84	268		938	84	342		954	84	445		977	84	496	
884	84	154		905	84	194		920	84	264		938	84	351		954	84	440		977	84	498	
884	84	157		905	84	195		920	84	265		938	84	350		954	84	446		978	84	498	
884	84	158		905	84	196		921	84	265		938	84	348		955	84	440		978	84	499	
884	84	159		906	84	196		921	84	266		938	84	351		956	84	445		978	84	500	
885	84	158		906	84	197		921	84	267		939	84	348		956	84	446		979	84	500	
885	84	159		906	84	198		922	84	266		939	84	346		956	84	447		979	84	501	
885	84	160		906	84	199		922	84	267		939	84	347		957	84	445		979	84	502	
885	84	161		907	84	199		923	84	265		939	84	344		957	84	446		980	84	502	
886	84	160		907	84	198		923	84	270		940	84	351		957	84	447		980	84	504	
886	84	161		907	84	197		923	84	269		940	84	343		957	84	450		980	84	505	
886	84	162		907	84	200		924	84	268		940	84	345		958	84	447		980	84	495	
887	84	163		908	84	199		924	84	266		940	84	346		958	84	448		981	84	492	
887	84	164		908	84	198		924	84	269		940	84	353		958	84	449		981	84	495	
887	84	165		908	84	200		924	84	270		940	84	354		959	84	449		981	84	494	
887	84	166		908	84	201		924	84	271		940	84	355		959	84	448		981	84	477	
888	84	164		909	84	202		925	84	270		940	84	360		959	84	450		981	84	478	
888	84	165		909	84	201		925	84	271		941	84	343		960	84	449		982	84	477	
888	84	166		909	84	204		925	84	272		941	84	346		960	84	450		982	84	478	
888	84	167		909	84	207		925	84	273		941	84	347		960	84	446		982	84	479	
889	84	154		910	84	202		925	84	274		942	84	346		960	84	439		982	84	492	
889	84	155		910	84	203		926	84	263		942	84	347		960	84	440		982	84	493	
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892	84	168		910	84	204		926	84	269		942	84	349		961	84	477		982	84	495	
892	84	144		911	84	206		926	84	273		943	84	348		961	84	481		982	84	515	
892	84	143		911	84	207		926	84	329		943	84	350		961	84	502		983	84	521	
892	84	169		911	84	208		927	84	327		943	84	351		961	84	503		983	84	524	
893	84	175		912	84	209		927	84	329		943	84	356		961	84	506		983	84	516	
893	84	173		912	84	207		927	84	336		944	84	349		961	84	505		983	84	518	
893	84	177		912	84	206		928	84	327		944	84	350		962	84	479		983	84	519	
894	84	171		912	84	208		928	84	328		944	84	351		962	84	484		984	84	516	
894	84	172		912	84	210		928	84	340		944	84	352		962	84	487		984	84	517	
894	84	170		913	84	209		928	84	341		944	84	356		962	84	489		984	84	518	
894	84	175		913	84	208		928	84	339		945	84	352		963	84	485		985	84	517	
895	84	170		913	84	210		928	84	332		945	84	355		963	84	490		985	84	518	
895	84	171		914	84	211		929	84	332		945	84	353		964	84	491		985	84	519	
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896	84	172		914	84	215		929	84	330		946	84	350		964	84	482		986	84	517	
896	84	173		914	84	214		930	84	329		946	84	355		965	84	482		986	84	520	
896	84	174		915	84	213		930	84	330		946	84	354		965	84	483		987	84	520	
897	84	170		915	84	214		930	84	331		946	84	360		966	84	483		987	84	521	
897	84	174		915	84	215		930	84	332		946	84	357		966	84	484		987	84	522	
897	84	175		915	84	216		931	84	331		947	84	354		967	84	485		988	84	521	
897	84	176		916	84	215		931	84	332		947	84	356		967	84	486		988	84	522	
898	84	176		916	84	216		931	84	333		947	84	357		968	84	486		988	84	523	
898	84	177		916	84	201		932	84	330		947	84	358		968	84	487		989	84	524	
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901	84	193		917	84	217		936	84	328		950	84	439		974	84	482		993	84	632	
902	84	195		918	84	260		936	84	329		950	84	443		975	84	485		993	84	633	
902	84	203		918	84	261		936	84	333		951	84	439		975	84	489		993	84	634	
902	84	191		918	84	262		936	84	334		951	84	440		975	84	492		994	84	633	
903	84	191		919	84	264		936	84	335		951	84	442		975	84	494		994	84	634	
903	84	192		919	84	266		936	84	336		952	84	442		976	84	493		994	84	635	
903	84	193		919	84	274		936	84	341		952	84	443		976	84	494		994	84	627	
904	84	194		919	84	272		937	84	342		953	84	444		976	84	495		998	84	630	
904	84	195		919	84	273		937	84	343		953	84	445		976	84	496		998	84	635	
904	84	196																					