10-1978

Jackson v. Virginia

Lewis F. Powell Jr.

D

PRELIMINARY MEMORANDUM

Dec. 1
~~October 13,~~ 1978 Conference
List 2, Sheet B/

No. 78-5283

11-30-78 response in - adds nothing. Paul

JACKSON (convicted murderer) Cert to CA 4 (Haynsworth, Winter, Widener) (p/c)

v.

VIRGINIA Federal/Civil (Habeas) Timely

1. SUMMARY: Petr urges the Court to decide whether the rule of Thompson v. City of Louisiana, 362 U.S. 199 (1960), that a federal court in a habeas proceeding must deny the writ if, in the state trial, there was "some" evidence to prove each element of the offense, is too narrow in light of the Court's decision in In re Winship, 397 U.S. 358 (1970).

2. FACTS: Petr and Mrs. Cole, whom petr had met while he was in prison, went for a drive one afternoon. Both petr and Cole had been drinking and

(See Wade) Paul

were "pretty well loaded." Petr had a revolver with him, and there was a butcher knife belonging to Cole in the front seat of the car; all the accounterments for a quiet Sunday drive. While at a diner, petr became boisterous. A sheriff noticed the gun and asked that petr give him the gun until petr sobered up. Cole insisted that they were going "straight home," and the sheriff allowed them to leave without confiscating the gun. From this point on, the facts are based on a statement given to the police by petr after his arrest. While driving home, Cole said she wished to have sex with petr. He refused, whereupon Cole attempted to stab him with her knife and stated that if she couldn't have him no other woman could. Jackson pushed her away and hit her with the butt of his revolver. He then left the car and crossed the street to call a taxi. While awaiting the cab , Cole drove up and persuaded petr to reenter the car. They then drove to a secluded church and began "messing around" and drinking. At this point Cole, who was naked from the waist down, and petr were outside the car. According to petr, Cole again sought sexual relations with petr and upon petr's refusal, she again attempted to attack him with the knife. To warn her away, petr said that he fired the revolver into the ground six times, which emptied it. He then broke the revolver open, emptied the six shell casings, which police officers later found, and reloaded. He stated that when the gun was reloaded, Cole attempted to wrest the pistol from him and that during the scuffle, the revolver accidentally discharged, killing Cole. Cole was shot twice; one bullet passed through her left breast and the fatal bullet

passed through the left side of her chest. Petr fled the scene but was picked up later in Florida, at which time he made the statement to police.

Petr was convicted of first degree murder in a trial before the court (Gates) and was sentenced to 30 years in prison. He appealed to the Virginia Supreme Court, which affirmed the conviction.[1/] Thereafter, petr sought habeas in the E.D. Va. and the DC (Warriner) granted the writ. Apparently, (the DC's opinion is not attached to the petn), the DC found that there was insufficient evidence in the record to prove premeditation, an element of the offense of M1. The CA 4 reversed. The court stated that under the rule of Thompson v. City of Louisiana, supra, a federal court must deny the writ if there was "some" evidence to prove each element of the offense. It rejected petr's argument that after In re Winship, supra, a habeas court can deny the writ only if there was evidence to prove each element of the offense beyond a reasonable doubt. After reviewing the evidence, the court found that there was "some" evidence of premeditation. It noted that under Virginia law, the requirement of premeditation is met if the necessary intention exists immediately before the fatal blow is struck; it need not exist for any appreciable period of time. In the court's view, the fact that petr was so un-

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1/ Petr doesn't state whether he raised in the state courts the constitutional claims he is now pursuing and the issue is not directly discussed by the CA in its opinion, which is the only opinion appended to the petition. The CA did refuse to consider certain contentions that had been raised in the petn for habeas corpus because they had not been raised in the state courts, and I take it from that statement that petr's current claims were raised in the state courts. App. at 9 n. 3.

threatened by Cole that he had sufficient time within which to reload his revolver and the fact that she was shot twice constituted some evidence of an intention on his part to shoot her. That a single shot might have been fired accidentally might be believable but that a second was fired accidentally after Cole already had been struck was "incredible." The court held that the judge was warranted in finding that petr was not so intoxicated as to negate premeditation and pointed to the fact that the sheriff did not think petr so drunk that he should not be allowed to leave the diner in the possession of a revolver. Also, the court rejected petr's contention that the judge's finding of premeditation was based on erroneous inferences from photographs of Cole's partially decomposed body taken after it was found by police. There was some evidence to support the ultimate finding of premeditation and there was only a suggestion that the judge may have been partially misled in his fact-finding process.

3. CONTENTIONS: First, assuming that Thompson v. City of Louisiana is still the law, petr argues that the CA 4 erred in finding that there was "some" evidence to support the element of premeditation. Principally, petr argues that his intoxication negated any premeditation. The autopsy of Cole showed that at the time of her death her blood alcohol level was .17%, which is well in excess of that deemed necessary to prove intoxication. Petr claims that his blood alcohol level was surely at least as high as Cole's. He points out that the revolver was an automatic so that the number of shots fired cannot prove premeditation.

Petr next contends that a habeas court must find more than simply "some" evidence to support each element; rather, it must satisfy itself that the trier of fact was warranted in finding each element beyond a reasonable doubt. He argues that any holding to the contrary in Thompson was overruled, sub silentio, in In re Winship, supra, where the Court stated, "the Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged." He contends that this due process protection would be meaningless if only "some" evidence were considered sufficient. In petr's view, a court could not conclude that the element of premeditation was proved beyond a reasonable doubt in this case, unless the court's finding was based, as petr suggests, on improper inferences drawn from gruesome photographs of Cole's body.

4. DISCUSSION: The only possibly certworthy question is whether the CA was correct in applying the rule of Thompson v. City of Louisiana in light of In re Winship. If the CA was correct on this issue, the only question left is a fact specific, sufficiency of the evidence claim. There certainly appears to have been "some" evidence of premeditation, as set forth by the CA.

In Thompson, the Court, reviewing petr's conviction in state court, stated that the "ultimate question presented to us is whether the charges against petitioner were so totally devoid of evidentiary support as to render his conviction unconstitutional under the Due Process Clause . . . Decision of this question turns not on the sufficiency of the evidence,

but on whether this conviction rests upon any evidence at all." 362 U.S. at 199; accord, Shuttlesworth v. Birmingham, 382 U.S. 87, 94 (1965); Garner v. Louisiana, 368 U.S. 157, 163 (1961). The Court found no evidence to support Thompson's conviction. In In re Winship, 397 U.S. 358, 364 (1970), the Court held that the "Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged. In his dissent from the denial of cert. in Freeman v. Zahradnick, 429 U.S. 1111, (1977)(75-6898), Justice Stewart suggested that the "no evidence" rule of Thompson should be reevaluated in light of the principles announced in In re Winship. He urged that the standard should be whether there is sufficient evidence in the record to support a finding by the trier of fact of guilt beyond a reasonable doubt. In his view the sufficiency of the evidence standard was of constitutional dimensions and habeas courts were bound to apply it. If the Court is inclined to reevaluate the standard set forth in Thompson, this case would appear to be as good a case as any. Neither petr nor the CA 4 pointed to any split in the circuits on this issue, however.

There is no response.

10/4/78 Kravitz Op in petn.
CMS

Justice Powell

Although Justice Stewart's position in Freeman has a certain logical appeal, as a matter of policy and practice I believe it is unworkable. Almost every criminal defendant who goes to trial (and this would include many serious crimes for which the incentives to plead are slight) could claim that on paper, the state's case was not strong enough to remove all reasonable doubts. Appellate courts (and thus includes federal courts entertaining habeas petitions) are not in a position to evaluate most types of evidence. This case provides a good example - petitioner may have been such an unconvincing witness as to damn himself before the jury with his own protestations of innocence. Courts are not set up to handle the torrent of litigation that would follow reversal here.

Yet I would not like to see an opinion of this Court stating that sufficiency of the evidence claims always are consigned to the Thompson standard. The best solution seems to me to be the disposition employed in Freeman - denial of cert. State courts can use what standard they chose, and Thompson enables federal courts to reach the truly egregious case.

Accordingly, I would deny.

yes

Paul

December 1, 1978

Court .....
Argued ....., 19...
Submitted ....., 19...

Voted on ....., 19...
Assigned ....., 19...
Announced ....., 19...

No. 78-5283

JACKSON

vs.

VIRGINIA

Response requested and received.

Byron
sees three justices
dissented last
time this Q was here,
& he will join them now

Granted

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
		G	D	N	POST	DIS	AFF	REV	AFF	G	D		
Burger, Ch. J.			✓										
Brennan, J.		✓											
Stewart, J.		✓											
White, J.		✓											
Marshall, J.		✓											
Blackmun, J.			✓										
Powell, J.			✓										
Rehnquist, J.			✓										
Stevens, J.			✓										

Argued ....., 19... *Assigned* ....., 19... No. 78-5283

Submitted ....., 19... *Announced* ....., 19...

JACKSON

vs.

VIRGINIA

Motion for appointment of counsel.

	HOLD FOR	CERT.		JURISDICTIONAL STATEMENT				MERITS		MOTION		ABSENT	NOT VOTING
		G	D	N	POST	DIS	AFF	REV	AFF	G	D		
Burger, Ch. J.													
Brennan, J.													
Stewart, J.													
White, J.													
Marshall, J.													
Blackmun, J.													
Powell, J.													
Rehnquist, J.													
Stevens, J.													
.....													

Grant
Marsel

January 5, 1978 Conference
List 5, Sheet 5

No. 78-5283 Motion of Appointment of Counsel

JACKSON

v.

VIRGINIA

Carolyn Colville asks for appointment as counsel to represent petr before this Court, although she is not yet a member of the bar of this Court. She was appointed to represent petr by CA 4, and prepared and signed the cert petn.

Applicant graduated from the T.C. Williams School of Law (Richmond, Va., 1976), is admitted in Virginia (1976), by the DC (ED Va.), and CA 4, and has been engaged in the general practice of law since June 1976.

Miss Colville will seek admission to this Court as soon as she is eligible (in about six months). The Clerk suggests that this case will be scheduled for argument in March.

12/15/78 Marsel

PJC

I would grant.
Paul

LFP/lab 3/5/79

To: David Date: March 5, 1979

From: L.F.P., Jr.

No. 78-5283 Jackson v. Virginia

In Thompson v. Louisville, 362 U.S. 199 (1960), the Court held that on federal habeas corpus review of a state conviction the writ should be denied if there was "some" evidence to prove each element of the offense.

In dissenting in 1977 from denial of cert in Freeman v. Zahradnick, 429 U.S. 1111, Justice Stewart argued that in light of Winship, 397 U.S. 358 (1970), the rule of Thompson should be reexamined with the view to changing the habeas corpus standard to require evidence "beyond all reasonable doubt" with respect to each element of the offense. We took the present case to consider the question raised by Justice Stewart.

In this case Jackson was convicted, in Chesterfield County, Virginia, of first-degree murder (not capital murder) of a woman when they were on a drinking spree together. The killing occurred in an argument over sex. As there were no witnesses, the evidence was entirely circumstantial. In Virginia, premeditation does not mean that the murder was planned. No particular interval of time

is necessary. Here, the woman was shot twice in circumstances which - as I view the evidence - makes Jackson's account of an accidental killing quite incredible. Thus, I suppose this case could be decided on the ground that the conviction should be affirmed even on a reasonable doubt standard.

If, however, we reach the issue that prompted us to grant, I would like your thinking. As I do not have the books here (my apartment), I have not reread Winship. My recollection is that it dealt with the requirements of proof at trial rather than upon habeas corpus review. The state's brief also says that Thompson was reaffirmed in Garner v. Louisiana, 368 U.S. 157 and Shuttlesworth v. Birmingham, 382 U.S. 87, and has been followed by most of the federal courts of appeal.

A theoretical argument in favor of the reasonable doubt standard is appealing. The standard distinguishes our legal system from that of most other countries in the world. But it is a standard applicable to trial, and direct review. I am not persuaded that the purpose of - or the policy underlying - federal habeas corpus review of state convictions requires a de novo examination of the sufficiency of the evidence to the extent of applying the strictest standard of proof.

There are strong policy reasons of federalism and

finality that support Thompson. The possibility of an innocent person being convicted of a felony (and whose conviction is not set aside either on appeal or upon habeas corpus) is infinitely remote under our elaborate system of appeals.

The theoretical argument to the contrary is, however, not frivolous. If the state conviction is on less evidence than the reasonable doubt standard requires, there has been a denial of due process. Thus, the case presents a choice between the symmetry of a uniform standard, on the one hand, and the history, practicalities and policy arguments on the other.

L.F.P., Jr.

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

CHAMBERS OF
THE CHIEF JUSTICE

April 4, 1979

PERSONAL

Re: 78-5283 - Jackson v. Virginia, et al.

Dear Harry:

The vote in this case will effect, as I see it, a monumental change in the concept of federal review of state criminal cases on collateral attack.

Lewis is particularly distressed about this case, and I suppose that is so partly because of Stone v. Powell, for the two cases have a common, underlying theme. This is another one of the cases where, coming to us as the fifth court dealing with the relatively simple matter, we are on the threshold of making a very important change which could impose heavy burdens on federal courts. In dealing with a collateral attack on a state conviction confirmed by the highest court of the state, the federal role up to now was to do no more than determine whether the fundamental "rules of the club" have been followed by the state.

Of course, there is no question about the burden of proof at trial, but the Winship case added nothing to the long-established American rule of burden of proof in non-civil cases. Every state in the Union has followed that standard since the beginning of the Republic. The Winship case did no more than say that this universally accepted idea was constitutionally based. It will add an enormous burden to the District Courts if a collateral attack under § 2255, or by way of habeas corpus, requires -- or permits -- the District Court to reweigh the evidence to decide whether a federal judge would have reached the same result.

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

April 5, 1979

Re: No. 78-5283 - Jackson v. Virginia

Dear Chief:

I am not sure that I understand the import of your letter of April 4, for it seems to me to embrace a misapprehension about my vote at the Conference.

When this case was discussed, I said this:

1. I felt that Winship changed the rules or at least raised a warning flag with respect to Thompson v. Louisville. The dissents in Freeman v. Zahradnick, 429 U.S. 1111, surely indicate that this view was entertained by three Justices who participated in Winship.

2. I do not accept the California suggestion that the Winship claim may not have been raised in the Virginia courts. I also am not persuaded by the California argument that Stone v. Powell should be extended to foreclose sufficiency of the evidence claims. This, for me, would be too great an expansion of Stone. Furthermore, a claim as to the sufficiency of the evidence goes to the heart of the judicial process and the ultimate issue of guilt or innocence.

3. If the standard of Thompson v. Louisville is to apply, this case is a clear affirm.

4. For me (but apparently not for others), if Winship imposed standards different from Thompson for habeas review, then under Winship, too, this case is a clear affirm. The facts are devastating. There is no direct evidence of how drunk Jackson was. The deputy did not take his gun away from him and thus could not have thought he was very drunk. He was sober enough to reload the gun under stress. His version of the struggle, in light of the physical evidence, is incredible. The victim was shot twice (shades of

Dick v. New York Life Ins. Co.). He fled all the way to Florida. When he returned from Florida, he did not go back to Virginia but stayed in North Carolina.

5. The easy way to dispose of this case would be to say that under either standard an affirmance is in order.

6. We did not take this case, however, just to pass judgment on its particular facts (I voted to deny certiorari), but to straighten out the Thompson-Winship confusion which has been with us now too long. I therefore could face the issue and decide it. I do not share your feeling that the Winship approach would effect "a monumental change." There would be some state court irritation, of course (witness Kentucky v. Wharton), but the burden on the federal courts would not be a great one. They would be applying the same standard of review they routinely apply in federal cases.

I say again that the easy way to resolve this particular case is to affirm it under whichever standard applies and let it go at that. No one else around the conference table seemed to agree; all appeared to take the one extreme view or the other extreme view. Just where I shall end up on the final vote depends on the writing. The crux, I think, came when Winship was decided in 1970. I was not here then, but I well recall how surprised I was that a case of that kind was decided at so late a date.

Because your letter indicates that you have discussed this in detail with Lewis, I am sending a copy of this letter to him. If you wish, I shall circulate something to this general effect to the other members of the Court. They may well share the same misapprehension as you do about my vote. I thought at the time of the Conference, however, that it was perfectly clear and that I was in the middle between the two "camps."

Sincerely,

The Chief Justice

cc: Mr. Justice Powell

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

CHAMBERS OF
THE CHIEF JUSTICE

April 23, 1979

PERSONAL

Dear Harry:

Re: 78-5283 Jackson v. Virginia

In your memorandum of April 5, final paragraph, you inquired whether you should "circulate something to this general effect...."

I am inclined to think this might be useful and give Lewis a chance to be heard on a case which, as the only "true blue Virginian" implicates him perhaps specially.

Regards,

WEB

Mr. Justice Blackmun

bc: Mr. Justice Powell

May 24, 1979

78-5283 Jackson v. Virginia

Dear Potter:

Please show on the next draft of your opinion that I took no part in the consideration or decision of this case.

Sincerely,

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 24, 1979

Re: 78-5283 - Jackson v. Virginia

Dear Potter:

As I believe I have already indicated, I will be dissenting. Because I regard this as an exceptionally important case, it may take me a little while to organize my thoughts.

At the moment, I am not entirely clear as to whether your "rational trier of the fact" standard is to be equated with a sort of rational basis equal protection standard which presumably would be satisfied by any evidence--in which event the case may be a tempest in a teapot--or the new standard is one that will require federal district judges and Courts of Appeals to review the entire transcript of every state criminal trial whenever an allegation of insufficient evidence is made. I am fearful that the lower courts will give your opinion the latter interpretation and that the increased burden on the Judiciary that will flow from this decision may well do more to encourage judicial resignations than the failure to pay judges decent wages.

Of even greater importance, I think your basic analysis is flawed. For if Winship means that every finding of guilt must be supported by a quantum of proof that satisfies a constitutionally required reasonable doubt standard, I should think it would

follow that appellate judges and habeas judges should also be satisfied that guilt has been satisfied beyond a reasonable doubt. If you reject this conclusion because we must place some faith in the system when the trial has been fair in all other respects, I do not understand why we cannot continue to trust the system we have been using up to now. Surely your citation of Clyatt (which applied the any evidence standard), and Glasser and Bronston, (neither of which involved a reversal for insufficiency of evidence) on page 8 of your opinion do not demonstrate any need to develop a new standard of review.

In any event, as these hastily dictated comments indicate, I do feel very strongly about this case and I hope you will bear with me if I take more time than is sometimes appropriate for dissenters.

Respectfully,

John

Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 25, 1979

Re: No. 78-5283 - Jackson v. Virginia

Dear John,

I had understood that you would be dissenting in this case, and I await your dissenting opinion with interest. Please feel under no time pressure whatever.

At the moment, let me simply say that it seems to me that your concern respecting the impact of this decision, so picturesquely expressed in your letter, is extravagantly unrealistic. This is not a "new standard," but one which trial judges have routinely had to apply in dealing with motions for acquittal and one that appellate judges have routinely applied in dealing with claims of insufficiency of the evidence. See, e.g., Judge Prettyman's opinion in Curley v. United States, 160 F.2d 229, 232. In an adversary system, where the applicant for habeas corpus has the burden of proof, I doubt there would be any measurable increase in the burden upon federal district judges.

Sincerely yours,

P.S.

Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

May 29, 1979

Re: 78-5283 - Jackson v. Virginia, et al.

Dear Potter,

I shall, of course, be interested in what John writes but for now and likely for the long pull, I agree.

Sincerely yours,

Mr. Justice Stewart

Copies to the Conference

cmc

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 31, 1979

RE: No. 78-5283 Jackson v. Virginia

Dear Potter:

I agree.

Sincerely,

Bill

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 6, 1979

Re: No. 78-5283 - Jackson v. Virginia

Dear John:

Please join me in your dissent in this case.

Sincerely,

W.H.R.

Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

June 12, 1979

Re: 78-5283 - Jackson v. Virginia

Dear John:

I join your dissenting opinion.

Regards,

WEB

Mr. Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

June 20, 1979

Re: No. 78-5283 - Jackson v. Virginia

Dear Harry:

Thank you for your letter of today. I agree with you that a rational trier of fact could have found the petitioner guilty beyond a reasonable doubt of first degree murder under Virginia law. Accordingly, I shall recast part IV to enable you to join the opinion, trusting that those who have already joined it will also go along.

Sincerely yours,

P.S.

Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 20,1979

Re: No. 78-5283 - Jackson v. Virginia

Dear Potter:

I have read and reread your and John's successive writings on the two sides of this case, and I write now to set forth where I come out.

I originally voted to deny certiorari in this case. I did so because I felt that on the lurid facts this was not a very good case to rationalize and resolve the respective foundations of Thompson v. Louisville and In re Winship. Despite the fact that there have been no new or clarifying developments since certiorari was granted, I could easily vote to DIG this case.

You and John, however, have invested time and hard work, and that time and hard work are not easily set aside.

The facts are devastating. Petitioner's story is basically incredible. There is no direct evidence of how drunk he really was. He was not drunk enough for the deputy to have taken his gun away. He was sober enough to reload the weapon under stress. He shot his victim twice (this brings to mind the parallel two-shot fact situation in Dick v. New York Life Ins. Co., 359 U.S. 437 (1959), and my vivid recollection of the Eighth Circuit's unanimous outrage at its reversal in that case.) Petitioner left his victim in the parking lot without seeking assistance. He fled to Florida. When he left Florida he returned only to North Carolina and not to Virginia. He attempted to sell the victim's car.

It therefore seems to me that under any standard whatsoever, whether that of Thompson or that of Winship, a rational trier of fact could have found petitioner guilty beyond a reasonable doubt.

Thus, it seems to me that the proposed disposition of the case is an exercise in legal theory that does not have much critical bearing on this particular petitioner. In Part IV of your opinion you conclude that the application of the correct criterion to the evidence is appropriately left to the Court of Appeals. This normally is the kind of disposition no one can properly criticize. But, for me, on the facts of this case it seems to be rather futile. We did otherwise in Fare v. Michael C., decided only today.

I indicated at Conference that so far as the analysis between Thompson on the one hand and Winship on the other is concerned, my sympathies are with your side of the argument and, in a "proper" case I believe I would so vote. The bottom line in this case for me, however, is to affirm.

I could, of course, write something to the effect that I agree with your analysis, or even formally join Parts I, II, and III of your opinion, but refrain from joining Part IV and cast my vote to affirm the judgment of the Fourth Circuit. This is not a very satisfactory solution from an institutional point of view. Other alternatives are to regard the case as affirmed by a equally divided vote (and wait for a better case which is sure to come), or to let the case go over the Term for reargument when Lewis will be able to participate. This obviously is something to be discussed tomorrow.

Sincerely,

HAB

Mr. Justice Stewart
cc: The Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 22, 1979

Re: No. 78-5283 - Jackson v. Virginia

Dear Potter,

As before, I am still with you.

Sincerely yours,

Byron

Mr. Justice Stewart

Copies to the Conference

cmc

THE C. J.	W. J. B.	P. S.	B. R. W.	T. M.	H. A. B.	L. F. P.	W. H. R.	J. P. S.
		4/2/79						
well Concur 6/11/79	agree 5/31/79	1st draft 5/24/79	interested in what PS writes, but for now, I agree PS 5/29/79	Join PS 5/24/79	Join PS 6/25/79	out letter 5/24/79	~~Join~~ Join PS 6/6/79	typed Draft dissent 6/4/79
Join JPS 6/12/79		2nd draft 5/30/79 3rd draft	still with PS 6/7/79	still with PS 6/25/79				1st draft 6/6/79
		6/13/79 5th draft 6/25/79	still with PS 6/22/79					2nd draft 6/14/79 3rd Draft 6/25/79
				78-5283 Jackson v. Virginia				