

June 15, 1970

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WALKER v. OHIO

APPEAL FROM THE SUPREME COURT OF OHIO

No. 1470, Decided June 15, 1970

Reversed.

PER CURIAM.

The judgment of the Supreme Court of Ohio is reversed. *Redrup v. New York*, 386 U. S. 767 (1967).

MR. CHIEF JUSTICE BURGER, dissenting.

The trial court, endeavoring to apply the standards articulated by this Court, held that the materials in question are obscene within the meaning of the relevant Ohio statute. This conclusion rested on findings that the materials are patently offensive to contemporary community standards relating to the description or representation of sexual matters; that, when taken as a whole, their dominant theme appeals to the prurient interest of the reader; and that they are utterly without redeeming social value. The Ohio appellate courts declined to disturb that judgment. Yet today the Court reverses, citing only *Redrup*.

I dissent from such a summary disposition, not only for the reasons expressed in my dissenting opinion in *Cain v. Kentucky*, 397 U. S. 319 (1970), but also because I find no justification, constitutional or otherwise, for this Court's assuming the role of a supreme and unreviewable board of censorship for the 50 States, subjectively judging each piece of material brought before it without regard to the findings or conclusions of other courts, state or federal. That is not one of the purposes for which this Court was established.

MR. JUSTICE HARLAN, for reasons expressed in his

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opinions in *Roth v. United States*, 354 U. S. 476, 496 (1957); *Jacobellis v. Ohio*, 378 U. S. 184, 203 (1964); and *Memoirs v. Massachusetts*, 383 U. S. 413, 455 (1966), would leave the judgment of the state court undisturbed.

MR. JUSTICE MARSHALL and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case.

BASSETT *v.* SMITH, WARDEN

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF GEORGIA

No. 1658, Misc. Decided June 15, 1970

Certiorari granted; 226 Ga. 10, 172 S. E. 2d 407, vacated and remanded.

PER CURIAM.

The motion for leave to proceed *in forma pauperis* and the petition for a writ of certiorari are granted. The judgment of the Supreme Court of Georgia affirming the denial of habeas corpus is vacated and the case is remanded to that court for further consideration after petitioner has been afforded adequate access to a copy of the transcript of the trial court hearing on his petition for habeas corpus. *Lane v. Brown*, 372 U. S. 477 (1963); *Long v. District Court*, 385 U. S. 192 (1966); cf. *Wade v. Wilson*, 396 U. S. 282 (1970).

MR. JUSTICE MARSHALL and MR. JUSTICE BLACKMUN took no part in the consideration or decision of this case.