

OPINIONS OF INDIVIDUAL JUSTICES
IN CHAMBERS

BALTIMORE CITY DEPARTMENT OF PUBLIC DEFENSE
ATTORNEY GENERAL'S OFFICE

REPORTER'S NOTE

The next page is purposely numbered 1301. The numbers between 1052 and 1301 were intentionally omitted, in order to make it possible to publish in-chambers opinions with *permanent* page numbers, thus making the official citations available upon publication of the preliminary prints of the United States Reports.

What follows is a copy of a memorandum I wrote to the state's attorney, Mr. John F. Borknight, in which I explained my reasoning for publishing in-chambers opinions with permanent page numbers. The following is a copy of the memorandum I typed. Borknight has not yet responded. However, since the following reasoning should reasonably be acceptable to any reasonable attorney, I thought it might be appropriate to publish it at this point. I am sure that Borknight would accept the reasoning set forth in the following memorandum. I hope that the state's attorney will accept the reasoning of this note. The lower court's decision is based on the United States Constitution, and the burden on Borknight should not be weighed against the very real jeopardy to a child's safety and well-being and perhaps even his life. If Borknight happened to go free, Borknight may not have the means to obtain information about or to locate the child. Also, it is likely that this decision will have an great influence on and force the other justices of the Supreme Court of the State, that the state-wide decision was erroneous.

January 21, 22, February 5, 1969

58 U. S.

None for rendering detailed. James MANNING, no part in the consideration or decision of these petitions.

JANUARY 21, 1969

Charles E. Dugay

No. 68-1016 (A-180). Alabama et al. v. C. A. Dugay. Application for stay of execution of sentence of death, presented to JOHN F. KELLY (197), and by him referred to the Clerk, denied. Certificate denied. Reported below 656 F. 2d 383.

Arthur S. Fagin and Jerome Wiesner, dissenting.
Allowing to stand, that the death penalty is not an appropriate and unusual punishment prohibited by the Eighth and Fourteenth Amendments 2-1968-1969, pp. 200, 201, 202, 203, 204, 205, we would grant the application for stay of execution of sentence of death, presented to JOHN F. KELLY (197), and by him referred to the Clerk, denied. Arthur S. Fagin and Jerome Wiesner, dissenting, three justices concurring in denial of certificate of probable cause and in denial of stay of execution of sentence of death.

John F. Kelly, dissenting, James MANNING, no part in the consideration or decision of this petition.
John F. Kelly, dissenting, Charles E. Dugay, Application for Certificate of Appeal, Application of the Attorney General of Florida for stay of the day of execution of sentence of death entered by the United States Court of Appeals for the Eleventh Circuit, presented to JOHN F. KELLY (197), and by him referred to the Clerk, denied.