

3-11-1977

03-11-1977 Memorandum to the Conference

William H. Rehnquist
US Supreme Court Justice

Follow this and additional works at: <http://ir.library.illinoisstate.edu/coddvvelger>



Part of the [Criminal Law Commons](#)

Recommended Citation

Rehnquist, W.H. Memorandum to the Conference, Codd v. Velger, 429 U.S. 624 (1977). Box 367, Harry A. Blackmun Papers, Manuscript Division, Library of Congress, Washington, D.C.

This Conference Note is brought to you for free and open access by the U.S. Supreme Court papers, Justice Blackmun at ISU ReD: Research and eData. It has been accepted for inclusion in Codd v. Velger, 429 U.S. 624 (1977) by an authorized administrator of ISU ReD: Research and eData. For more information, please contact ISURed@ilstu.edu.

HAB

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 11, 1977

MEMORANDUM TO THE CONFERENCE

Re: Cases held for No. 75-812 -- Codd v. Velger

Two cases have been held for Codd v. Velger, No. 75-812, decided February 22, 1977. Both cases present issues not resolved by our decision in Codd.

In University of Missouri v. Horowitz, No. 76-695, the CA 8 ruled that the dismissal of a student from medical school, even absent any publicization of reasons therefor, was sufficiently stigmatizing to entitle the student to a Roth hearing. The apparent reasons for the dismissal are non-specific in nature, apparently relating to clinical performance, patient rapport, erratic attendance, and poor personal hygiene, and the analysis of Codd requiring allegation of falsehood does not appear to be dispositive. I believe that Roth, John's opinion last Term in Bishop v. Wood, and his separate concurrence in Codd, are dispositive, however, in holding that some publication of reasons is an essential prerequisite to a deprivation of liberty by stigmatization. See Roth, 408 U.S. at 575, n.13; Bishop, 426 U.S. at 348-349. My first choice would therefore be to summarily reverse; my second would be to grant plains.

In School Bd. of Brooklyn v. Huntley, No. 76-104, the CA 2 ordered a Roth hearing for an acting principal who was removed on grounds of poor performance, whence a letter stating the reasons for removal was read at a Parent's Association meeting at which supporters of petitioner

demanding to hear the charges against him. The reasons for dismissal again are such that the holding of Codd does not seem pertinent. On the merits this seems a tougher case than Horowitz, presenting the questions 1) whether there was sufficient publicization of the reasons, and 2) if so whether, in light of the fact that respondent has already taken another job as a teacher, there was sufficient injury to reputation to amount to constitutional stigmatization. I will vote to grant.

Sincerely,

JHR/280