

Sticky Buns for Justice Blackmun

BY DANIEL J. SIEGEL



Sticky buns. If you ask me what my most vivid memory is from the constitutional law class I took in college, the answer will be sticky buns. Actually, it will be sticky buns for Justice Blackmun. Allow me to explain.

During the penultimate semester of my senior year at Franklin and Marshall College, I enrolled in “Constitutional Law,” which was taught by Professor D. Grier Stephenson. Traditionally one of the most popular courses offered by the Government Department, the class used law school case books and provided an excellent introduction for those of us destined to attend law school. We finished the course with dreams of regularly representing parties before the Supreme Court — and winning.

For one assignment, I was to write a brief for the state in *Michigan v. Summers*, a case that was then pending before the U.S. Supreme Court. In the case, police officers executing a search warrant saw George Summers, the potential defendant, leaving his home.

The officers requested Summers’ assistance in gaining entry and detained him while they searched the premises. After finding narcotics and verifying that Summers owned the house, the police arrested and searched him, and discovered heroin in his coat pocket. Summers was charged with possession of heroin and sought to suppress the drugs as the product of an illegal search that violated the Fourth Amendment. I jumped into the project, reading case after case — until I thought I knew everything there was to know about illegal searches. I wrote my brief and proudly handed it in.

Meanwhile, because he had authored books on constitutional law with Princeton professor and judicial biographer Alpheus Mason, Professor Stephenson had connections we students could only dream of. One was Supreme Court Justice Harry Blackmun, who was invited to give an endowed lecture at the college. The school was abuzz that a Supreme Court justice was coming, and not any justice, but the one who had written the controversial decision in *Roe v. Wade* just a few years earlier.

Blackmun spoke on February 9, 1981 in the College’s Nevin Chapel, a historic building ideal for such a luminary.

I remember little about the justice’s presentation, except for one question. One classmate, who was always willing to ask any question to anyone, raised his hand and queried, “If you had to write your decision in *Roe v. Wade* now, would you change anything?” Blackmun looked thoughtfully at the student, pursed his lips and quietly responded, “Not a word.” No one asked about *Michigan v. Summers*.

While in Lancaster, Justice and Mrs. Blackmun enjoyed some fresh baked sticky buns. Professor Stephenson recalls, “My wife

took Mrs. Blackmun down to the Central Market. She bought some sticky buns and they really enjoyed them.”

At around the time of Blackmun’s lecture, we also learned that the Supreme Court had scheduled oral argument in *Michigan v. Summers* for February 25, 1981, and a few of us decided to attend. We told Professor Stephenson about our plans,

who told Blackmun about our upcoming visit to the court; we also learned that our professor had shared our briefs with the justice. When he learned that a group of students was coming to Washington, Professor Stephenson recalled that the justice and his wife had enjoyed the sticky buns. “It occurred to me that it would be sort of neat and a golden opportunity if we could deliver some sticky buns,” Professor Stephenson notes. “I called his chambers and talked to his principal secretary, and they went ahead and made the arrangements and alerted the guards,” he adds.

Professor Stephenson purchased the sticky buns and entrusted them to us. Our drive to Washington was uneventful. We parked in the residential neighborhood near the Supreme Court. Wearing jackets and ties, an event by itself, we approached the Supreme Court with its marble steps. As we climbed those steps, I was carrying the white bakery box, which was tied shut with white string. Suddenly, a guard approached us, seemingly out of nowhere. “Are those the sticky buns for Justice Blackmun?” he asked. We nodded. “I’ll take them, thank you.” We handed the box to the guard, who turned and walked up the steps.

We entered the Supreme Court building and walked to the courtroom to await the oral argument. I still remember the deep crimson drapes. Eventually, we heard *Michigan v. Summers* being called. The state’s attorney wore what appeared to be a tuxedo and tails; the defendant’s attorney wore a brown suit. Both seemed unusual to our naive minds. Later, we learned that attorneys who are arguing their first case before the Supreme Court traditionally wear morning suits. To my mind, the brown suit still seems out of place.

After the session concluded, we returned to my car, which had been ticketed for parking in a residential neighborhood. I disregarded the ticket, assuming that the District of Columbia would never locate me, and we returned to campus.

In late June 1981, shortly after graduation, I was reading my morning paper and learned that the Supreme Court had delivered its opinion in *Michigan v. Summers*, ruling for the state. I searched for the decision — there was no Internet back then, and people didn’t even have PCs — and eventually obtained a copy. The court, in a decision by Justice Stevens, had adopted my reasoning — with Justice Blackmun in the majority. I was thrilled. Blackmun *must* have been so impressed with my brief — after all, Professor Stephenson gave me an A — that he gave it to Justice John Paul Stevens, who adopted my analysis. My career as a constitutional lawyer was off to an auspicious start, or so I thought.

Months later, I received a notice from the District of Columbia advising me that my ticket was unpaid. I wrote the check. Then I remembered the sticky buns. After all, anyone can get a ticket in Washington. In the history of the Republic, who else had ever delivered sticky buns to the Supreme Court? ■

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