



# Federal Courts and Civil Rights

*Juidice v. Vail*

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# Federal Courts and Civil Rights

*Juidice v. Vail*

Jane Bloom Grisé  
Michelle C. Grisé



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XII

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*To Harry Vail, Jr. and all those who must  
navigate a complex civil justice system*



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# Preface

In my first semester of law school, I took civil procedure because it was a required course. In my second year, I took federal jurisdiction and received the lowest grade in my law school career. I recall that it was a difficult class, full of abstract concepts that seemed to have little relevance to me.

Four years later, I started working at Mid-Hudson Legal Services in Poughkeepsie, New York where I was given the opportunity to work on the case, *Juidice v. Vail*. This case, which I ended up arguing before the United States Supreme Court, challenged the constitutionality of the New York state civil contempt statutes. All of a sudden, the abstract concepts that I had grappled with in civil procedure and federal jurisdiction courses in law school became real and critical to the success or failure of our litigation efforts.

Years later, as a fellow at the Yale Institute for Social and Policy Studies, Michelle was conducting research on the evolution of civil contempt statutes in states across the United States. Although she knew that I had argued a case before the Supreme Court, through her research, she became much more familiar with *Juidice v. Vail*. Michelle, who as a law student found civil procedure to be quite interesting, and I decided to write this book to make civil procedure and federal jurisdiction come alive.

Civil procedure may seem dry at first glance, but, in the practice of law, it is the toolkit that determines every move in a case. Federal jurisdiction may seem challenging, but it controls who has access to the legal system. Whether the doors to the federal court system are open or closed to a litigant often determines the success or failure of a case.

In short, we want you to be excited about civil procedure and federal jurisdiction. This may seem like a tall order. As you follow the story of Harry Vail, a father and husband who ended up in jail because he could not understand our complicated legal system, you will see that his attorneys needed to understand civil procedure and federal jurisdiction to advocate on his behalf. By the end of Mr. Vail's story, we hope that you will share our view of the critical importance of civil procedure and federal jurisdiction.



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# Introduction

Consumers in the United States borrow over one trillion dollars each year. It is clear that consumer credit is an integral part of our economy. Unfortunately, the consumer credit system is complicated for many consumers to navigate. In 2010, the Federal Trade Commission, the nation’s consumer protection agency, issued a report that characterized the “system for resolving disputes about consumer debts” as “broken,” adding that there was not “adequate protection for consumers.”<sup>1</sup> The FTC found that the debt collection system was “in serious need of reform” because American consumers did not receive proper notice of lawsuits, did not understand legal documents, and could not afford legal representation.

These problems are not new. Rather, they have persisted for decades. Forty years ago, consumers and lawyers grappled with some of these same issues. In the 1970s, consumer debt was 162 billion dollars each year—less than current levels of borrowing, but still a considerable figure. Like their contemporary counterparts, consumers also found it difficult to understand and navigate the debt collection system. Sometimes they did not appear in court because they never received notice of a lawsuit. If they did receive notice, the documents they received were difficult to understand. Even if they understood the documents, they did not have the money to pay for an attorney. In New York, the system was particularly challenging because lawyers used the civil contempt statutes to collect judgments, and consumers could be jailed if they did not pay contempt fines.

In 1974, for example, a man named Harry Vail owed Public Loan \$534, and Public Loan used the New York civil contempt laws to collect this debt. On October 1, 1974, Mr. Vail was jailed for failing to pay a \$294 contempt fine. While this may not seem like a large amount of money, \$294 in 1974 is equivalent to \$1,600 in 2018. At the time of his arrest, Mr. Vail, who was living in Poughkeepsie, New York, was unemployed. He relied on public assistance and had one dollar to his name. When Mr. Vail got out of jail, he went to Mid-Hudson Legal Services Project in Poughkeepsie, New York. Lawyers at Mid-Hudson examined the New York civil contempt laws and concluded that the statutes violated Mr. Vail’s constitutional rights because Mr. Vail had been jailed without ever appearing before a judge or being represented by an attorney.

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1. Federal Trade Commission, *Repairing a Broken System: Protecting Consumers in Debt Collection Litigation and Arbitration* ii (July 2010).

*Federal Courts and Civil Rights: Juidice v. Vail* tells the story of *Juidice v. Vail*,<sup>2</sup> 430 U.S. 327 (1977), the case that challenged the constitutionality of the New York civil contempt statutes on behalf of Harry Vail and other individuals who faced similar challenges. In this book, you will meet the plaintiffs, the individuals who were jailed or threatened with jail and who brought the case. You will also meet the people who were sued, the defendants. The defendants were the creditors who used the civil contempt laws to collect consumer debts, the judges who issued the arrest orders, and the sheriff who made the arrests.

This book also introduces you to the lawyers who brought this case in federal court. They were young lawyers in their twenties—perhaps not much older than you—who were committed to providing high quality legal services to low-income individuals. This book explains how they evaluated whether the New York statutes were constitutional by researching constitutional and civil rights law. You will follow them as they examined rules relating to federal jurisdiction to decide whether the case could be filed in federal court. This was important because civil rights attorneys have historically considered federal courts better equipped to handle complex constitutional challenges to state statutes. You will learn about the procedural issues that confronted the attorneys in federal court as they filed the case, requested injunctions, and added people to the lawsuit. You will examine the court decisions as the case progressed from the district court to the United States Supreme Court.

Finally, you will learn about legislative efforts to include better procedural safeguards in the New York civil contempt statutes. Some of the problems faced by the *Juidice* plaintiffs continue today, so you will also explore recent efforts to reform procedures that govern the collection of consumer debt. Low-income consumers still struggle to understand legal documents, obtain legal representation, and navigate a complicated legal system.

While most law textbooks focus on appellate court decisions, this book introduces you to the clients, lawyers, trial court proceedings, and legislative actions, as well as the trial and appellate court decisions. This book examines *Juidice* chronologically from the inception of the dispute to its final resolution. You will learn about federal jurisdiction, civil procedure, and civil rights law from the perspective of the parties and lawyers in the case.

In addition to reading the court decisions, you will have the opportunity to examine primary sources, including documents filed in court, and learn about public reaction to the case. Jane Bloom Gris , who was one of the lawyers working on the case and is a co-author of this book, will also share her recollections. In short, this book starts from the beginning and uses primary sources to explore Mr. Vail’s story. It also examines the implications of the decision today.

Chapter 1 provides background information about the consumer debt problems faced by Mr. Vail and the other plaintiffs in the case as well as the

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2. The case will be referred to as *Juidice*, even though the case was referred to as *Vail v. Quinlan* in the district court.

techniques used by creditors to extend and collect debts. Chapter 1 also introduces you to the civil contempt laws that were challenged, Mr. Vail's encounter with these statutes, and the attorneys' decision to file the case. Chapter 2 provides a broad overview of civil cases and explains the content of the complaint that was filed in the case on October 30, 1974.

Chapter 3 introduces you to Patrick Ward, who was threatened with arrest because he could not pay a contempt fine. This chapter focuses on the motion for a temporary restraining order, which was filed to prevent Mr. Ward from being jailed. Chapter 4 examines two motions: the motion to convene a three-judge court and the motion for class relief. Chapter 5 focuses on the events that occurred between January and March of 1975, including motions to add additional plaintiffs and defendants, and motions to prevent further arrests. Chapter 6 analyzes how the defendants responded to the complaint. Chapter 7 addresses proceedings before the three-judge court, including the briefs, the oral argument, and the court's decision.

Chapter 8 examines the Supreme Court proceedings including the briefs and oral argument, as well as the Court's decision. Chapter 9 traces the efforts to change the law, both in New York and at the federal level, which occurred while the Supreme Court considered the case and afterwards. Chapter 10 analyzes the impact of the Supreme Court's decision on civil rights litigation and consumer issues today.

Before we dive into the case, we are going to meet the parties, lawyers, and judges. We are doing this to make the case come alive. Cases are more than words on the pages of textbooks. Cases involve real people facing real challenges. Let's peek behind the words of the appellate decision and learn about the people who sued and were sued, the lawyers who represented them, and the judges who decided the case.

We will first introduce you to the parties: the plaintiffs who had been arrested and who were threatened with arrest and the defendants, creditors who had sued for money owed on consumer loans, medical bills, car repairs, and rent. We will meet the local sheriff who arrested the plaintiffs and became a defendant in the case, and the county judges, who issued commitment orders and also became defendants. Next, we will learn about the young lawyers who represented the plaintiffs and defendants. Finally, we will learn about the federal judges who decided the case.

## **1. PLAINTIFFS AND CREDITOR DEFENDANTS**

The plaintiffs were mothers and fathers with young children who were trying to support their families. They fell behind on bills for doctors, car repair, rent, and credit obligations. Our information regarding the plaintiffs comes from the complaint and the recollections of plaintiffs' lawyers. According to the complaint, Mr. Vail, who had been born in 1947, lived in Poughkeepsie with his wife and two infant children. At the time of the case, he was twenty-seven

years old. Because he had lost his job, he received public assistance. Mr. Vail fell behind on his payments to Public Loan, a company that extended credit so that people could buy household goods. Mr. Vail died in 2003.

Mr. Ward's situation was similar to Mr. Vail's in several respects. He also lived in Poughkeepsie, and he was unemployed. He used his unemployment insurance checks to help support his ex-wife and their child. Born in 1950, Mr. Ward would have been twenty-four years old at the time of the *Juidice* case. Dr. Goran, one of the defendants in the case, sued Mr. Ward because he did not pay his ex-wife's medical bill.

Richard McNair, one of the other plaintiffs, also lived in Poughkeepsie with his wife and their three children. He was not working, but his wife earned \$90 per week. Born in 1938, Mr. McNair would have been thirty-eight years old in 1974. Dr. Montgomery sued Mr. McNair and his wife for an unpaid medical bill. Mr. McNair died in 2009.

Two other plaintiffs were also sued for unpaid medical bills. Three plaintiffs were sued by H.H. Redl's Auto Body Works for auto tows and repairs. Other plaintiffs were sued for overdue credit bills, support payments, and past due rent payments.

## 2. COUNTY AND STATE DEFENDANTS

### Lawrence M. Quinlan

In 1974, Lawrence M. Quinlan was serving as the Sheriff of Dutchess County. Sheriff Quinlan became a defendant because his office was responsible for arresting the plaintiffs to enforce the contempt orders. Born in 1915, he died in 2003. He attended the FBI's National Police Academy and served in the Marines in World War II. He was first elected sheriff in 1957. By the time the case was filed, he was serving his fifth three-year term as sheriff.

Sheriff Quinlan's deputies arrested Mr. Vail and took him to the Dutchess County Jail, which was run by Sheriff Quinlan. Just a year earlier, in April 1973, a class action lawsuit had been filed because of the poor conditions at the jail.<sup>3</sup> In February 1974, inmate suicides and rioting prompted the New York State Commission of Correction to inspect the jail. The Commission found that the jail was "in violation of all minimum standards."<sup>4</sup> In March 1975, conditions had deteriorated to the point where Sheriff Quinlan stated that the jail was "unsafe" and should be closed.<sup>5</sup> In 1976, Sheriff Quinlan was held in contempt for failing to comply with a 1973 stipulation to improve conditions

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3. *Lasky v. Quinlan*, 419 F. Supp. 799 (S.D.N.Y. 1976).

4. *Dispute Involves Dutchess Sheriff*, N.Y. Times, Dec. 7, 1975, at 63.

5. *Dutchess Sheriff Asks Jail be Shut*, N.Y. Times, March 28, 1975, at 19.



at the jail. Among other issues, convicted and sentenced inmates were housed with individuals who had not yet been sentenced.<sup>6</sup>

In recent years, the jail conditions have not improved. In February 2018, the Dutchess County Jail was listed as one of the five “worst offenders” by the New York State Commission of Correction. A Commission report stated that the “facilities pose an ongoing risk to the health and safety of staff and inmates and, in instances, impose cruel and inhumane treatment of inmates in violation of their Constitutional rights.”<sup>7</sup>

## Judge Joseph Jiudice and Judge Raymond E. Aldrich, Jr.

Judge Joseph Jiudice and Judge Raymond E. Aldrich, Jr. became defendants in the case because they signed the orders directing Sheriff Quinlan to arrest the plaintiffs. Born in December 1921, Judge Jiudice graduated from New York University Law School in 1948 and was admitted to the New York Bar in 1949.<sup>8</sup> He served in the 102<sup>nd</sup> infantry during World War II. In 1961, he was appointed as a judge in the Children’s Court and later became the first family court judge in Poughkeepsie. In 1966, he moved to County Court, and he served as a judge in the New York Supreme Court from 1975 to 1997. In 1974, he was fifty-three years old. He died in 2007 at the age of eighty-five.

Judge Jiudice’s colleagues remembered him as someone who gave everyone a “fair shake.”<sup>9</sup> One lawyer stated that the Judge would always say, “Calm down, folks. I’m the one you have to convince.”<sup>10</sup> A female attorney who practiced before him in the early 1970s remembered “[w]hen it wasn’t always pleasant to be a female lawyer, I was always pleased to be in court with Judge Jiudice ... He was a gentleman and a gentle man.”<sup>11</sup> Leonard Johnson, who Judge Jiudice sentenced to prison for selling marijuana in the 1970s, also remembered the judge fondly. Mr. Johnson recalled after Judge Jiudice’s death that Judge Jiudice “didn’t condemn you, [rather] he treated you like a friend, he gave you respect ... I deserved to go to prison back then, but now I see the harm I did dealing drugs.”<sup>12</sup> Mr. Johnson wanted the judge’s “family to know that a fellow who was sentenced by him thought the judge was a beautiful man.”<sup>13</sup>

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6. The Second Circuit reversed the finding of contempt because the original plaintiffs were no longer in jail, and the case was moot. *Lasky v. Quinlan*, 558 F.2d 1133 (2d Cir. 1977).

7. N.Y. State Commission of Correction, *The Worst Offenders Report: The Most Problematic Local Correctional Facilities Of New York State* 61 (Feb. 2018).

8. His name was spelled Jiudice. It was misspelled as “Juidice” throughout the case.

9. Larry Fisher-Hertz, *Jiudice recalled by law colleagues*, Poughkeepsie J., Jan. 16, 2007, at 2A.

10. *Id.*

11. Larry Hertz, *Jiudice’s career, life lauded*, Poughkeepsie J., April 26, 2007, at 1B.

12. *Ex-Inmate remembers Judge as beautiful man*, Poughkeepsie J., May 1, 2007, at 1B.

13. *Id.*

Judge Raymond E. Aldrich, Jr. was born in December 1921 in Poughkeepsie, New York. He graduated from Union College and Albany Law School and was admitted to the New York Bar in 1949. After law school, he served in the U.S. Navy in World War II. After the war, he practiced law with his twin brother at the firm Aldrich & Aldrich in Poughkeepsie. In 1966, he was defeated by 86 votes in a race for the New York Assembly. He later said that this defeat was a blessing because it opened the door for him to be appointed as a family court judge.

On January 28, 1966, he was sworn in as family court judge in Dutchess County, and in 1969 he was elected as a county court judge. In 1982, Judge Aldrich retired, but he was formally removed from office the following year. The New York Court of Appeals found that “his displays of vulgarity and racism and his threats of violence both on and off the Bench have ‘resulted in [an] irretrievable loss of public confidence in his ability to properly carry out his judicial responsibilities.’”<sup>14</sup>

### 3. LAWYERS

#### Mid-Hudson Legal Services Project

The plaintiffs’ lawyers, Jane Bloom (Grisé) and John Gorman, worked at the Poughkeepsie office of Mid-Hudson Legal Services Project. Mid-Hudson had eleven attorneys, six paralegals, and seven secretaries in four locations: Middletown, Newburgh, Liberty, and Poughkeepsie, New York. In 1974, this staff handled 1,967 cases: 661 cases involved family law, 608 cases dealt with administrative matters such as welfare benefits, 220 cases focused on consumer and employment law, and the remainder of the cases dealt with housing and prison conditions.

The Poughkeepsie office was located seventy-five miles north of New York City on the Hudson River. According to the 1970 census, Poughkeepsie had a population of 32,000 people, and its current population is similar. The Mid-Hudson Legal Services office in Poughkeepsie had three attorneys, several paralegals, and one secretary. The office was located downtown, at 50 Market Street, in a second-floor storefront. Clients and lawyers had to walk up a narrow staircase to reach the office. When clients reached the top of the stairs, they were greeted by a secretary or paralegal sitting in a reception area. There were three attorney offices and a small library that adjoined the reception area. The office was functional and friendly. In the evening, the attorneys often returned to work and brought their dogs who would enjoy time to socialize with one other. In 1974, there was no internet or electronic legal research. Fortunately, there was a good selection of law books at Vassar College located a few miles away.

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14. *Aldrich v. Judicial Comm.*, 58 N.Y.2d 279 (N.Y. 1983).

In 1974, Market Street was home to several law offices, a coffee shop, a few restaurants, a YMCA down the street, and the Dutchess County Courthouse where Judges Giudice and Aldrich conducted court hearings. In December 1996, the building that housed Mid-Hudson was torn down and became the site of the new Dutchess County Family Court.

John Gorman was the Managing Attorney of Mid-Hudson Legal Services at the time the case was filed. He had graduated from the State University of New York at Buffalo College of Law and was admitted to the New York bar in 1972. He is now in private practice in New York City.

Jane Bloom Gris  had started working at Mid-Hudson Legal Services in July 1974. She had graduated from the University of Wisconsin College of Law in 1973 and then clerked for a state appellate judge in Ohio. After working at Mid-Hudson for four years, she became an Assistant United States Attorney for the Southern District of New York where she served as Chief of the Civil Rights Unit and Deputy Chief of the Civil Division. She then moved into academia and is currently a professor at the University of Kentucky College of Law. In 1974, both John Gorman and Jane Bloom were in their twenties.

Mid-Hudson Legal Services was assisted by attorneys at the Monroe County Legal Assistance Corporation Greater Up-State Law Project in Rochester, New York. This office provided support services to legal services offices in upstate New York.

## New York Consumer Protection Board

Hal Abramson, an attorney with the New York Consumer Protection Board, wrote the *Amicus Curiae* Brief in *Juidice* with Carl G. Dworkin. Mr. Abramson graduated from Syracuse University College of Law in 1975 and subsequently worked in state government and private practice. Professor Abramson is now a faculty member at Touro Law Center in New York. In 1974, he was also in his twenties.

## Defendants' Lawyers

A. Seth Greenwald represented Judges Giudice and Aldrich. Mr. Greenwald graduated from Columbia University Law School and was admitted to the New York bar in May 1964. He was an Assistant Attorney General in the office of Louis J. Lefkowitz, the Attorney General of New York. Mr. Greenwald's offices were located at Two World Trade Center in New York City. In 1974, he was probably in his thirties.

Thomas A. Reed represented Dr. Montgomery. Mr. Reed graduated from Cornell University Law School and was admitted to the New York bar in December 1966. In 1974, he was also in his thirties. Charles Morrow, the attorney for Public Loan, graduated from St. John's University School of Law and was admitted to the New York bar in December 1968. In 1974, he would have been in his late twenties or early thirties.

#### 4. NEW YORK CIVIL CONTEMPT STATUTES

The civil contempt statutes were enacted in 1909. With minor revisions, they were in substantially the same form in 1974. The civil contempt statutes permitted debtors to be jailed if they did not respond to orders directing them to appear in court and/or pay fines.

#### 5. FEDERAL JUDGES IN THE SOUTHERN DISTRICT OF NEW YORK

Judge Edward Weinfeld signed the initial papers in the case. In addition, there were three federal judges who made up the three-judge court that heard the case at the district court level: John M. Cannella and Lloyd F. MacMahon, of the U.S. District Court for the Southern District of New York and J. Edward Lumbard, Jr., of the U.S. Court of Appeals for the Second Circuit.

#### Judge Edward Weinfeld

Judge Weinfeld, who signed the order for the first court hearing, was born on May 14, 1901 and attended law school at night so that he could work during the day. After graduating from law school, he opened his own office, where he practiced for twenty-seven years. Through his work with the Democratic Party, he became friends with Herbert Lehman who went on to become the Governor of New York. Judge Weinfeld entered public service as a delegate to the 1938 New York State Constitutional Convention. In 1939, Governor Lehman appointed Judge Weinfeld as the first Housing Commissioner for the State of New York. President Truman appointed Judge Weinfeld to the U.S. District Court of the Southern District of New York in 1955.

Judge Weinfeld began work as early as 4:30 in the morning. He explained in a speech to students at Fordham Law School that “When, at a fairly early hour of the morning, I put the key into the door of my darkened chambers, switch on my lights and walk across the room to start the day’s activities, I do so with the same enthusiasm and excitement that was mine the very first day of my judicial career.”<sup>15</sup> He worked twelve hours a day, six days a week. As he told his “concerned friends,” “what one enjoys is not work but rather joy; the immense satisfaction that one is privileged to play a daily role in that noblest of callings which is the rendition of justice.”

In a speech at New York University Law School, Judge Weinfeld explained to students that “every case is important” and “no case is more important than any other.” To a poor person, he said, “a case involving a small sum” was as

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15. David Margolick, *A Lifetime of Law & Quiet Diligence for Judge Weinfeld*, N.Y. Times Archives, Aug. 18, 1985.

important as “a case involving millions of dollars was to powerful interests.”<sup>16</sup> Judge Weinfeld died in 1988 at the age of eighty-six. At the time, he was the oldest active federal judge in the country. Supreme Court Justice William Brennan once remarked that “[t]here is general agreement on bench and bar throughout the nation that there is no better judge on any court.”<sup>17</sup>

## Judge John M. Cannella

John M. Cannella, who was assigned to the case and wrote the decision convening the three-judge court, was born on February 8, 1908 in New York City. His father was a shoemaker who later became a bailiff. Judge Cannella went to Fordham College where he played football and was one of the linemen who formed the Seven Blocks of Granite. While Judge Cannella was a pre-med student at Fordham, he ultimately decided that medical school would be too expensive. Instead, he went to Fordham Law School. He worked his way through law school by playing tackle for the New York Giants for two seasons.

After law school, Judge Cannella worked in a law firm and in 1940 he became an Assistant United States Attorney for the Southern District of New York. He served as an attorney for the Internal Revenue Service in New York before becoming the Commissioner of Water, Sewer, Gas and Electricity in New York City. Then, he became the Commissioner of Licenses in New York City. In 1949, he was appointed to the New York City Court of Special Sessions. In 1963, President Kennedy appointed Judge Cannella to the federal bench.

## Judge Lloyd F. MacMahon

Judge MacMahon, who wrote the three-judge court decision, was born on August 12, 1912 in Elmira, New York. His father was a tool and die maker at the Remington Rand factory, and his mother was a homemaker. He attended college during the depression and worked his way through school at Syracuse University, Cornell University, and Cornell Law School where he graduated in 1938. He then opened a firm back in Elmira and practiced for four years before moving to New York City to work in the firm of Donovan Leisure Newton Lumbard & Irvine. In 1944, as a Lieutenant in the U.S. Naval Reserve, he left the firm to serve in the Navy escorting convoys across the Atlantic Ocean.

Judge MacMahon’s mentor at the firm was Judge Edward Lumbard. In 1953, when Judge Lumbard was appointed U.S. Attorney for the Southern District of New York, he asked Judge MacMahon to become the Chief Assistant United States Attorney for the Southern District of New York. In 1959, President Eisenhower nominated Judge MacMahon to become a district court

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16. Arnold H. Lubasch, *Judge Edward Weinfeld, 86, Dies; On U.S. Bench Nearly 4 Decades*, N.Y. Times Archives, Jan. 18, 1988.

17. *Id.*

judge. He served in this capacity from 1959 until his death in 1989. From 1980 to 1982, he was the chief judge, and from 1985 to 1989, he served as a judge on the Foreign Intelligence Surveillance Court.

## Judge Edward Lumbard

Judge Lumbard was the third member of the three-judge court. Born in Harlem in 1901, Lumbard graduated from DeWitt High School in 1918, Harvard College in 1922, and Harvard Law School in 1925. After working in private practice in New York City for three years, he became an Assistant United States Attorney for the Southern District of New York and prosecuted prohibition cases. He continued his public service work when he was named an assistant to the future Supreme Court Justice John Harlan in a special prosecutor's investigation of sewage construction kickbacks in Queens, New York. He became Chief of the Criminal Division of the United States Attorney's Office for the Southern District of New York three years later.

In 1933, he left public service and became a founding partner of the New York law firm Donovan, Leisure, Newton & Lumbard. In 1953, he left private practice to become United States Attorney for the Southern District of New York. He was appointed to the Second Circuit in 1955 and became Chief Judge in 1959. In 1971, he took senior judge status. In 1999, he died at the age of ninety-seven.<sup>18</sup> After his death, his son noted that "Dad thought it was important for young lawyers to get into public service, and he himself shifted from the public to private sector throughout his career ... he instilled this attitude in many young lawyers while at the U.S. Attorney's office."<sup>19</sup>

## 6. SUPREME COURT JUSTICES

There were four opinions in the Supreme Court's decision in *Juidice*. There was a majority opinion written by Justice William Rehnquist, a concurring opinion written by Justice John Paul Stevens, and dissenting opinions written by Justice William Brennan and Justice Potter Stewart. Justice Thurgood Marshall joined in Justice Brennan's dissenting opinion. Brief biographies of these Justices follow.

### Justice William Rehnquist

Justice Rehnquist, who wrote the *Juidice* majority opinion, was fifty-two years old in 1977. After attending Stanford Law School, he worked in private

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18. Nick Ravo, *J. Edward Lumbard Jr., 97, Judge and Prosecutor, Is Dead*, N.Y. Times Archives, June 7, 1999.

19. *Judge J. Edward Lumbard Dies at 97*, The Harvard Crimson, June 8, 1999. <https://www.thecrimson.com/article/1999/6/8/judge-j-edward-lumbard-dies-at/>.



practice and was active in the Republican Party. He moved to Washington D.C. after President Richard Nixon took office, serving as the Assistant Attorney General for the Office of Legal Counsel from 1969 to 1971. In 1971, President Nixon appointed him to the Supreme Court. In 1986, President Reagan appointed him Chief Justice. He remained on the Court until he died in 2005.

## **Justice John Paul Stevens**

Justice John Paul Stevens, who wrote the *Juidice* concurring opinion, was fifty-six years old in 1977. A graduate of Northwestern University School of Law, he served in the Navy in World War II. After law school, he clerked for Supreme Court Justice Rutledge before going into private practice in Chicago. After serving as a judge on the Seventh Circuit, President Ford appointed him to the Supreme Court in 1975. He retired in 2010 and died in 2019.

## **Justice William Brennan**

Justice William Brennan, who wrote one of the dissenting opinions, was seventy-one years old in 1977. The son of Irish immigrants, he attended Harvard Law School, where he was a member of the Harvard Legal Aid Bureau. After law school, he went into private practice. During World War II, he enlisted in the Army. In 1956, President Eisenhower appointed him to the Supreme Court. He remained on the Court until 1990 and died in 1997.

## **Justice Thurgood Marshall**

Justice Thurgood Marshall, who asked many questions during the oral argument and joined in Justice Brennan's dissenting opinion, was sixty years old in 1977. He was the son of a railroad porter and a teacher and attended Howard University Law School. Justice Marshall previously served as the Chief Counsel for the NAACP and had argued *Brown v. Board of Education* before the Supreme Court. In 1967, President Johnson appointed him to the Supreme Court. He remained on the Court until 1991 and died in 1993.

## **Justice Potter Stewart**

Justice Potter Stewart, who wrote one of the dissenting opinions, was sixty-two years old in 1977. His father had served as the Mayor of Cincinnati and as a Justice on the Ohio Supreme Court. Justice Stewart attended Yale Law School. In 1958, President Eisenhower appointed him to the Supreme Court. He retired in 1981 and died in 1985.

## CONCLUSION

As you can see, many different people were involved in *Juidice v. Vail*. As we explore how the case was initiated and progressed through the court system, remember that the case involved experienced judges and young lawyers who faced complicated and challenging legal questions. Most importantly, the case had the potential to impact the lives of many people who were arrested or threatened with arrest. Let's dive in.



# *Juidice v. Vail*

## Chronology

### **1909: New York Civil Contempt Statutes Enacted**

#### **1974: Complaint, Request for Preliminary Injunction**

- |             |  |
|-------------|--|
| February 21 | Richard McNair is arrested in accordance with the New York civil contempt statutes   |
| October 1   | Harry Vail is arrested in accordance with the New York civil contempt statutes   |
| October 3   | Patrick Ward is served with an Order of Contempt stating that he would be arrested in 30 days unless he paid a \$270 fine  |
| October 30  | Plaintiffs file complaint and request injunction to prevent Mr. Ward's arrest. Plaintiffs request convening of three-judge court, and class relief. Hearing scheduled for November 6 |
| November 6  | Hearing held and injunction issued to prevent Mr. Ward's arrest  |

#### **1975: Motions, Three-Judge Court Hearing**

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|-------------|--|
| January 2   | Plaintiffs file motion for an injunction to prevent James Hurry's arrest; court issues injunction and schedules hearing on January 27  |
| January 8   | Plaintiffs file motion for an injunction to prevent the arrest of Leslie Nameth, McKinley Humes, Joseph Rabasco, and Joanne Harvard; court issues injunction and schedules hearing on January 27 |
| January 13  | Court issues opinion and order granting plaintiffs' motion to convene a three-judge court, 387 F. Supp. 630 (S.D.N.Y. 1975) (Appendix 2)   |
| January 27  | Court conducts hearing on January 2 and January 8 motions for injunctions and grants motions   |
| February 13 | Plaintiffs file motion to permit Mr. Russell, Jr., Ms. Thorpe, and Mr. Harrell to intervene  |

February 13	Plaintiffs file motion to amend affidavits of Mr. Nameth and Mr. Humes after they were arrested in violation of federal court order
February 20	Order issued designating members of three-judge court: Judges Canella, MacMahon and Lumbard
February 26	Defendants H.H. Redl's, Hudson View, Way, and Montgomery file affidavits in opposition to motion to intervene
March 10	Defendant Public Loan files answer to complaint
March 12	Defendants Juidice and Aldrich file motion to dismiss
March 20	Defendant H.H. Redl's files answer to complaint
March 31	Defendant Quinlan files answer to complaint
April 3	Defendant Montgomery files answer to complaint
April 4	Three-judge court hearing

### **1976: District Court Decisions, Appeal, New York State Legislative Action**

January 5	Judge MacMahon grants motion for class certification (Appendix 3)
January 7	Three-judge court issues decision, 406 F. Supp. 951 (S.D.N.Y. 1976) (Appendix 4)
January 19	Defendants request stay of three-judge court order
January 23	Three-judge court denies application for a stay
February 6	Defendants file notice of appeal
February 12	Supreme Court stays three-judge court order
February 26	Bill introduced in the New York State Senate to amend the New York civil contempt statutes
March 25	Appellants file jurisdictional statement in Supreme Court
April 13	New York Assembly passes A10319 to amend the civil contempt statutes
June 21	Supreme Court notes probable jurisdiction
June 29	New York Assembly Bill A10319 repassed, Senate bill S21063 passed.
July 20	New York A10319/S21063 recalled by Governor
August 4	Appellants file Supreme Court brief
September 28	Appellees file Supreme Court brief
September 30	New York State Consumer Protection Commission submits <i>amicus curiae</i> brief
November 19	Appellants file reply brief
November 30	Supreme Court oral argument

### **1977: Legislative Action, Supreme Court Decision**

January 4	New York Consumer Protection Board Legislative Proposal submitted to Governor
February 2	New York Assembly Bill A2927 introduced

March 22	Supreme Court issues decision, 430 U.S. 327 (1977) (Appendix 6)
May 2	New York Assembly passes A2927, 144-1
June 21	New York Senate passes A2927, 55-0
July 12	Governor of New York signs new civil contempt statutes



# About the Authors

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