



Ronald L. Buckwalter

Born: 1936, in Lancaster, Pennsylvania

Federal Judicial Service:

Judge, U.S. District Court for the Eastern District of Pennsylvania

Nominated by George H.W. Bush on November 17, 1989, to a seat vacated by Charles R. Weiner.

Confirmed by the Senate on March 9, 1990, and received commission on March 12, 1990. Assumed senior status on December 11, 2003.

Education:

Franklin and Marshall College, A.B., 1958

William and Mary Law School, B.C.L., 1962

Professional Career:

Private Practice, Lancaster, Pennsylvania: 1963-1980

Legal Aid Attorney, Lancaster, Pennsylvania: 1964-1966

Clerk, Hon. John Bowman and Hon. Anthony Appel, Court of Common Pleas of Lancaster County, Pennsylvania: 1966-1970

Assistant District Attorney, Lancaster County, Pennsylvania: 1970-1978

District Attorney, Lancaster County, Pennsylvania: 1978-1980

Judge, Court of Common Pleas of Lancaster County, Pennsylvania: 1980-1990

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Judicial Biography

Judge Buckwalter received an Artium Baccalaureus degree from Franklin and Marshall College in 1958 and a Bachelor of Civil Law from William & Mary School of Law in 1962.

After a tour of active duty with the Pennsylvania Army National Guard, where he attained the rank of first lieutenant, he became a sole practitioner in Lancaster. He was a legal aid attorney in Lancaster from 1964 to 1966, and then was a clerk to Judges John Bowman and Anthony Appel of the Court of Common Pleas of Lancaster County.

In 1971, he formed a partnership with K.L. Shirk, Jr. and Roger S. Reist. Buckwalter became an assistant district attorney for Lancaster County in 1970 and was district attorney from 1977 to 1980. He served as a Judge on the Court of Common Pleas of Lancaster County from 1980 to 1990.

In 1991, in *Dalton v. Specter*, a case involving the closing of the Philadelphia Naval Shipyard, Judge Buckwalter dismissed the lawsuit, saying the Defense Base Closure and Realignment Act of 1990 stripped the courts of jurisdiction. This case reached the U.S. Supreme Court in 1994, where Buckwalter's decision was affirmed.

In 1996, Judge Buckwalter was part of a three-judge panel, and as such, was one of the first jurists to consider the First Amendment status of the internet. In *Reno v. American Civil Liberties Union*, the three-judge panel included Buckwalter; Judge Stewart Dalzell, from the Eastern District; and Chief Judge Dolores Sloviter of the United States Court of Appeals for the Third Circuit. In this case, the panel ruled on the constitutionality of the Communications Decency Act (CDA) of 1996.

Congress had enacted the CDA to restrict and criminalize the transmission of "obscene or indecent" materials to minors. In three separate opinions, the three judge panel found two provisions of the CDA (sections 223[a] and sections 223[d]) to be unconstitutional because of vagueness and their impact on internet communications with regard to the First Amendment and Fifth Amendment.

The judicial opinion found that the word "indecent" was unconstitutionally vague, and the terms "in context" and "patently offensive" also were so vague as to violate the First and Fifth Amendments. To enforce these words would violate the "fundamental constitutional principle" of "simple fairness", as well as the First and Fifth Amendments.

In response to the government's argument that the two provisions in question would be applied only to "pornographic" materials and would not be applied to materials with serious value, the three judge panel found that the CDA itself did not support the government's argument. "Indecency has not been defined to exclude works of serious literary, artistic, political or scientific value, and therefore the Government's suggestion that it will not be used to prosecute publishers of such material is without foundation in the law itself."

After the district court's unanimous ruling that the CDA was unconstitutionally vague, the government appealed to the Supreme Court. The Supreme Court affirmed the lower court's rulings on June 18, 1997. A majority opinion, written by Justice Stevens, found the two provisions to be unconstitutionally vague and overbroad, and infringed upon the right to free expression. Justice Stevens was joined by six other Justices (Scalia, Kennedy, Souter, Thomas,

Ginsburg, and Breyer) to affirm the decision in full. Justice O'Connor and Chief Justice Rehnquist concurred in the judgment in part and dissented in part.

Judge Buckwalter had two additional cases heard by the Supreme Court. In *Rompilla v. Beard*, Judge Buckwalter granted relief to Rompilla, ruling that trial counsel had been ineffective.

Before the Third Circuit Court of Appeals, then Circuit Court Judge Alito reversed. On June 19, 2005, Justice Souter delivered the Opinion of the Supreme Court, reversing the judgment of the Third Circuit, and affirming Judge Buckwalter's decision.

Finally, in the fourth case of Judge Buckwalter to reach the Supreme Court, *American Manufacturers' Mutual Insurance Co. v. Sullivan*, the Third Circuit Opinion reversing Judge Buckwalter, was reversed by the Supreme Court in an Opinion by Chief Justice Rehnquist.

Another case handled by Judge Buckwalter that gained national attention was *Cureton v. National College Athletic Association*. In this case, Judge Buckwalter discarded the NCAA's minimum test score requirement, in which incoming freshmen students were required to achieve a minimum score on either the SAT or ACT test as a condition of eligibility for freshmen athletics and/or athletically related financial aid.

Judge Buckwalter found that Title VI of the Civil Rights Act of 1964 prohibited the NCAA's ineligibility rule because the rule had an unjustified disparate impact against African Americans. Buckwalter added that the NCAA's goal of improving graduation rates, which was the reason it instituted Proposition 16 in the first place, was not being served by the cutoff scores, and that meeting that goal could be achieved by other available methods.

Judge Buckwalter's decision went on appeal to the United States Court of Appeals for the Third Circuit, where it was reversed on December 22, 1999.

Judge Buckwalter assumed senior status on December 11, 2003.