

FROM: MCSWEENEY'S INTERNET TENDENCY

THE SUPREME COURT ISSUES A 5-4 DECISION ON WHERE TO ORDER LUNCH

Eric Hague[†]

JUSTICE GINSBURG
DELIVERS THE OPINION OF THE COURT

From time to time, this Court must preside over controversies so divisive and so morally ambiguous that we Justices – nine mortal men and women – feel somewhat ill-equipped to discern the issues' deeper truths and mete out justice accordingly. Never is this concern more palpable, and never is our duty as jurists more daunting, than when we have to stand around and figure out which restaurant we're going to order lunch from.

It is therefore with great solemnity that we hand down the majority opinion in the case of *Domino's v. That One Greek Place Over on N Street*.

There are meritorious arguments for both proposals. Pizza, as some members of the Court have contended, is a lunch cuisine with deep foundations in the history of the United States Supreme Court's break room kitchenette. Further, our unanimous opinion in *Domino's v. Sbarro*, 540 U.S. 891 (2003), stands for the proposition that Domino's never skimps on the toppings, and that their Cinna Stix are pretty good too, especially if you eat them when they're still warm.

[†] Eric Hague is a writer living in Philadelphia. He has also written satire for the *New Yorker* and the *Wall Street Journal*. Original at www.mcsweeneys.net/articles/the-supreme-court-issues-a-5-4-decision-on-where-to-order-lunch (Mar. 29, 2012; vis. Mar. 4, 2014). © 2012 Eric Hague.

While those Justices in favor of that Greek joint have argued that Gyros are, in many respects, way tastier than pizza (see Scalia, J., dissenting, *infra*), they have failed to cite to any relevant Federal Statutes or Law Review articles for support. As another matter, the Court isn't even sure whether the Greek place will deliver all the way to the Supreme Court Building – and Breyer is the only Justice with a car, and he doesn't really feel like driving.

Several Justices have also noted that we ordered Pizza last Thursday. We reject this argument, however, since last Thursday was oral arguments for that dicey affirmative action case, and a bunch of us had to recuse ourselves and so couldn't partake in the pizzas. Additionally, secondhand testimony that there are still a couple of leftover slices in the fridge is inadmissible as hearsay under the Federal Rules of Evidence.

We therefore rule that the Court will have Domino's. We remand only for further fact-finding as to whether everyone is cool if we get extra cheese.

It is so ordered. (Or will be, anyway, when one of our clerks calls it in.)

SCALIA, J.,

WITH WHOM THE CHIEF JUSTICE AND JUSTICES
ALITO AND THOMAS JOIN, DISSENTING

Our decision today flies in the face of more than a quarter century of the Court's lunchtime jurisprudence. The majority thoughtlessly dismisses the notion that Mediterranean food is extremely yummy, despite a persuasive amicus brief from Professor Richard Posner, and even though everyone seemed to enjoy the shawarmas we got from that Lebanese food truck a few weeks back.

Moreover, this decision represents a disturbing affirmation of the kind of majoritarian tyranny the Court has sought to abrogate in the years since it handed down its controversial opinion *In re Burger King*, 474 U.S. 1352 (1985), in which the Court voted 8-1 to strike down Justice Stevens's preference for BK fries.

Therefore, I respectfully dissent from the Court's judgement – and no, I am not cool with extra cheese.

KENNEDY, J.,
CONCURRING IN PART, DISSENTING IN PART,
HUNGRY IN FULL

As Chief Justice John Marshall very nearly wrote in his opinion in *Marbury v. Madison*, “It is emphatically the province of the Judicial Branch to say [where we order our lunch from].”

But neither that seminal decision nor our mandate in Article III, Section I of the Constitution prescribes the specific processes by which we should determine where we get our takeout. In truth, the Court’s longstanding requirement that all the Justices order food from the same restaurant is as artificial as our policy of not tipping the delivery guy if he takes more than 30 minutes.

So while I join the majority in their conclusion that a couple of pizzas would really hit the spot right now, I fully support the prerogative of the dissenters to go ahead and separately order their pitas or whatever – even though this would mean the Court can’t use its coupon for three large, one-topping pizzas and thus get a free two-liter of Mountain Dew.

The Supreme Court stands for nothing if not the democratic principle of ideological compromise. If we can put this matter behind us, we’ll be able to turn our attention to vastly less controversial matters, like that healthcare case we’ve got this afternoon. That’s something we’ll all be able to agree on, right? //