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Samuels v. Mackell

401 U.S. 66 (1971)

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To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Fortas
Mr. Justice Marshall

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SUPREME COURT OF THE UNITED STATES

Nos. 11 AND 20.—OCTOBER TERM, 1969

From: Black, J.

George Samuels et al., Appellants,
11 v.
Thomas J. Mackell, District
Attorney, et al.

Fred Fernandez, Appellant,
20 v.
Thomas J. Mackell, District
Attorney, et al.

Circulated: **MAY** 6 1970

On Appeals From the
United States Dis-
trict Court for the
Southern District
of New York.

Recirculated: _____

[May —, 1970]

MR. JUSTICE BLACK delivered the opinion of the Court.

The appellants in these two cases were all indicted in a New York state court on charges of criminal anarchy, in violation of §§ 160, 161, 163, and 580 (1) of the New York Penal Law.¹ They later filed these actions in federal district court,² alleging (1) that the anarchy statute was void for vagueness in violation of due process, and an abridgment of free speech, press, and assembly, in violation of the First and Fourteenth Amendments; (2) that the anarchy statute had been pre-empted by federal law; and (3) that the New York laws under which the grand jury had been drawn violated the Due Process and Equal Protection Clauses of the Fourteenth Amendment because they disqualified from jury service

¹ These provisions were repealed effective September 1, 1967, and a new criminal anarchy statute, in somewhat different form, took effect on the same date.

² The complaint in No. 11 was filed in the Southern District of New York. The complaint in No. 20 was originally filed in the Eastern District, but was later transferred to the Southern District by consent.

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 12, 1970

Nos. 11 & 20, Samuels v. Mackell

Dear Hugo,

I am glad to join your opinion for the Court in these cases, subject to considering any revisions you may think necessary in the light of separate opinions that may be filed.

Sincerely yours,

P.S.
✓

Mr. Justice Black

Copies to the Conference