

# The Burger Court Opinion Writing Database

*Blount v. Rizzi*

400 U.S. 410 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF  
THE CHIEF JUSTICE

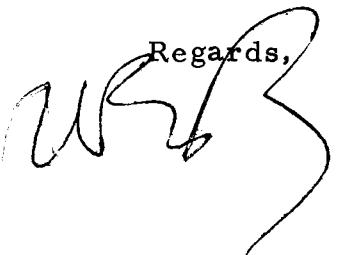
January 7, 1971

Re: No. 55 - Blount v. Rizzi  
No. 58 - United States v. The Book Bin

Dear Bill:

Please join me.

Regards,



Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF  
JUSTICE HUGO L. BLACK

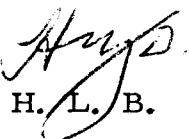
December 29, 1970

Dear Bill,

Re: Nos. 55 and 58 - Blount, PMG, et al.  
v. The Mail Box, etc.

Will you please note that I concur in  
the result in this case?

Sincerely,



H. L. B.

Mr. Justice Brennan

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

CHAMBERS OF  
JUSTICE JOHN M. HARLAN

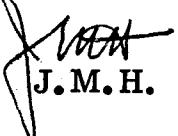
January 5, 1970

Re: No. 55 - Blount v. Mail Box  
No. 58 - U.S. v. Book Bin

Dear Bill:

I am glad to join your opinion in these cases.

Sincerely,



J. M. H.

Mr. Justice Brennan

CC: The Conference

*Not Circulated***SUPREME COURT OF THE UNITED STATES**

Nos. 55 AND 58.—OCTOBER TERM, 1970

Winton M. Blount, Postmaster General of the United States, et al., Appellants, 55 v. Tony Rizzi dba The Mail Box.	On Appeal From the United States District Court for the Central District of California.
United States et al., Appellants, 58 v. The Book Bin.	On Appeal From the United States District Court for the Northern District of Georgia.

[January —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

*Mail Box*, No. 55, draws into question the constitutionality of 39 U. S. C. § 4006 (1964) under which the Postmaster General, following administrative hearings, may halt use of the mails and of postal money orders for commerce in allegedly obscene materials. *Book Bin*, No. 58, also draws into question the constitutionality of § 4006, and, in addition, the constitutionality of 39 U. S. C. § 4007, under which the Postmaster General may obtain a court order permitting him to detain the defendant's incoming mail pending the outcome of § 4006 proceedings against him.

39 U. S. C. § 4006 provides in pertinent part:

"Upon evidence satisfactory to the Postmaster General that a person is obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene . . . matter, or is depositing or causing to be deposited in the United

Circulated  
12-21-70

## SUPREME COURT OF THE UNITED STATES

Nos. 55 AND 58.—OCTOBER TERM, 1970

Winton M. Blount, Postmaster General of the United States, et al., Appellants, 55 v. Tony Rizzi dba The Mail Box.	On Appeal From the United States Dis- trict Court for the Central District of California.
United States et al., Appellants, 58 v. The Book Bin.	On Appeal From the United States Dis- trict Court for the Northern District of Georgia.

[January —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

*Mail Box*, No. 55, draws into question the constitutionality of 39 U. S. C. § 4006 (1964) (now 39 U. S. C. § 3006, Postal Reorganization Act, 84 Stat. 719, 747-748), under which the Postmaster General, following administrative hearings, may halt use of the mails and of postal money orders for commerce in allegedly obscene materials. *Book Bin*, No. 58, also draws into question the constitutionality of § 4006, and, in addition, the constitutionality of 39 U. S. C. § 4007 (now 39 U. S. C. § 3007), under which the Postmaster General may obtain a court order permitting him to detain the defendant's incoming mail pending the outcome of § 4006 proceedings against him.

39 U. S. C. § 4006 provides in pertinent part:

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

December 23, 1970

RE: Nos. 55 & 58 - Blount v. Rizzi

Dear Potter:

Thank you very much for your return in the above. I suggest embodying the thought in your postscript in a new footnote 4 keyed to the end of the short paragraph in the middle of page 7 as follows:

"We therefore have no occasion to consider the argument of appellees that Stanley v. Georgia, 394 U. S. 557 (1969) presupposes that an individual has a constitutional right to obtain possession of the challenged materials by delivery through the mail."

Does this seem appropriate?

Sincerely,



Mr. Justice Stewart

cc: The Conference

To: The Chief Justice  
 Mr. Justice Black  
 Mr. Justice Douglas  
 Mr. Justice Harlan  
 Mr. Justice Stewart  
 Mr. Justice White  
 Mr. Justice Marshall  
 Mr. Justice Blackmun

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p. 7

**SUPREME COURT OF THE UNITED STATES**

Term: Brennan, J.

Nos. 55 AND 58.—OCTOBER TERM, 1970

Circulated:

Recirculated: 12-28-70

Winton M. Blount, Postmaster  
 General of the United States,  
 et al., Appellants,  
 55 v.  
 Tony Rizzi dba The Mail Box.

On Appeal From the  
 United States Dis-  
 trict Court for the  
 Central District of  
 California.

United States et al., Appellants,  
 58 v.  
 The Book Bin.

On Appeal From the  
 United States Dis-  
 trict Court for the  
 Northern District of  
 Georgia.

[January —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

*Mail Box*, No. 55, draws into question the constitutionality of 39 U. S. C. § 4006 (1964) (now 39 U. S. C. § 3006, Postal Reorganization Act, 84 Stat. 719, 747-748), under which the Postmaster General, following administrative hearings, may halt use of the mails and of postal money orders for commerce in allegedly obscene materials. *Book Bin*, No. 58, also draws into question the constitutionality of § 4006, and, in addition, the constitutionality of 39 U. S. C. § 4007 (now 39 U. S. C. § 3007), under which the Postmaster General may obtain a court order permitting him to detain the defendant's incoming mail pending the outcome of § 4006 proceedings against him.

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SUPREME COURT OF THE UNITED STATES

Nos. 55 AND 58.—OCTOBER TERM, 1970

Winton M. Blount, Postmaster General of the United States, et al., Appellants, 55 v. Tony Rizzi dba The Mail Box. On Appeal From the United States District Court for the Central District of California.

[January —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

*Mail Box*, No. 55, draws into question the constitutionality of 39 U. S. C. § 4006 (1964) (now 39 U. S. C. § 3006, Postal Reorganization Act, 84 Stat. 719, 747-748), under which the Postmaster General, following administrative hearings, may halt use of the mails and of postal money orders for commerce in allegedly obscene materials. *Book Bin*, No. 58, also draws into question the constitutionality of § 4006, and, in addition, the constitutionality of 39 U. S. C. § 4007 (now 39 U. S. C. § 3007), under which the Postmaster General may obtain a court order permitting him to detain the defendant's incoming mail pending the outcome of § 4006 proceedings against him.

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"Upon evidence satisfactory to the Postmaster General that a person is obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene . . . matter, or is depositing or causing to be deposited in the United

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Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun

5

From: Brennan, J.

## SUPREME COURT OF THE UNITED STATES

Nos. 55 AND 58.—OCTOBER TERM, 1970

Recirculated: 1-7-71

Winton M. Blount, Postmaster General of the United States, et al., Appellants, 55 v. Tony Rizzi dba The Mail Box.	On Appeal From the United States Dis- trict Court for the Central District of California.
United States et al., Appellants, 58 v. The Book Bin.	On Appeal From the United States Dis- trict Court for the Northern District of Georgia.

[January —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

*Mail Box*, No. 55, draws into question the constitutionality of 39 U. S. C. § 4006 (1964) (now 39 U. S. C. § 3006, Postal Reorganization Act, 84 Stat. 719, 747-748), under which the Postmaster General, following administrative hearings, may halt use of the mails and of postal money orders for commerce in allegedly obscene materials. *Book Bin*, No. 58, also draws into question the constitutionality of § 4006, and, in addition, the constitutionality of 39 U. S. C. § 4007 (now 39 U. S. C. § 3007), under which the Postmaster General may obtain a court order permitting him to detain the defendant's incoming mail pending the outcome of § 4006 proceedings against him.

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**SUPREME COURT OF THE UNITED STATES**

Nos. 55 AND 58.—OCTOBER TERM, 1970

Winton M. Blount, Postmaster General of the United States, et al., Appellants, 55 v. Tony Rizzi dba The Mail Box.	On Appeal From the United States District Court for the Central District of California.
United States et al., Appellants, 58 v. The Book Bin.	On Appeal From the United States District Court for the Northern District of Georgia.

[January —, 1971]

MR. JUSTICE BRENNAN delivered the opinion of the Court.

*Mail Box*, No. 55, draws into question the constitutionality of 39 U. S. C. § 4006 (1964) (now 39 U. S. C. § 3006, Postal Reorganization Act, 84 Stat. 719, 747-748), under which the Postmaster General, following administrative hearings, may halt use of the mails and of postal money orders for commerce in allegedly obscene materials. *Book Bin*, No. 58, also draws into question the constitutionality of § 4006, and, in addition, the constitutionality of 39 U. S. C. § 4007 (1964) (now 39 U. S. C. § 3007), under which the Postmaster General may obtain a court order permitting him to detain the defendant's incoming mail pending the outcome of § 4006 proceedings against him.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 22, 1970

55 & 58 -- Blount v. Rizzi

Dear Bill,

I am glad to join your opinion for the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Brennan

Copies to the Conference

P. S. - I think our respective law clerks have been conversing about the desirability of inserting a few words somewhere in the opinion, reserving the question of whether the Government has any power at all to suppress delivery of this material by first class mail. I assume you will be making such an addition.

P.S. P.S.

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

CHAMBERS OF  
JUSTICE POTTER STEWART

December 28, 1970

55 & 58 - Blount v. Rizzi

Dear Bill,

The footnote you have added to this  
opinion seems entirely appropriate to me.

Sincerely yours,



Mr. Justice Brennan

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

January 4, 1971

Re: Nos. 55 and 58 - Blount v. Rizzi dba The  
Mail Box

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Dear Bill:

Please join me in your opinion in this  
case.



B.R.W.

Mr. Justice Brennan

Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 30, 1970

Re: Nos. 55 and 58 - Blount v. Rizzi, etc.

Dear Bill:

Please join me.

Sincerely,



T.M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

January 11, 1971

Re: No. 55 - Blount v. Rizzi  
No. 58 - United States v. The Book Bin

Dear Bill:

You may join me in your proposed opinion for these appeals.

I must confess that I have difficulty understanding the last sentence of footnote 6 on page 8. I may be bogged down in the double negative.

I also have some difficulty with the sentence which begins the first full paragraph on page 8. I know what is meant, but it sounds as though the sender would be returning advertisements for sale "addressed to the distributor.

Sincerely,



Mr. Justice Brennan

cc: The Conference