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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

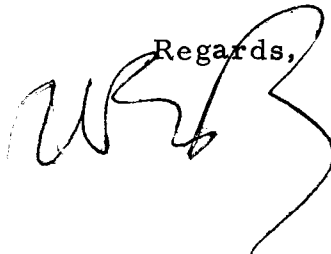
January 7, 1971

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

Dear Bill:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be 'WRB', with a long, sweeping flourish extending from the bottom right.

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

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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 Dis- trict Court for the Central District of California.
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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.
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[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

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.
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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.
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[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

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

p. 7

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

SUPREME COURT OF THE UNITED STATES

From: 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.
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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

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

SUPREME COURT OF THE UNITED STATES

Nos. 55 AND 58.—OCTOBER TERM, 1970

Recirculated: 1-7-71

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

United States et al., Appellants, } On Appeal From the
58 v. } United States Dis-
The Book Bin. } 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 Dis- trict Court for the Central District of California.
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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.
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[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,

P.S.

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

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