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## *Polk v. United States*

404 U.S. 1053 (1972)

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to: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

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WILLIAM POLK v. UNITED STATES

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ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 71-5459. Decided January —, 1972

MR. JUSTICE DOUGLAS.

I would grant certiorari in this case. Prison censorship of mail discovered a letter written by an inmate which at the trial of the inmate was used to convict him. The evils of censorship are thus compounded. The right of privacy protected by the Bill of Rights (*Griswold v. Connecticut*, 381 U. S. 479) is re-emphasized when government is dealing with a captive audience (see *Public Utilities Commission v. Pollak*, 343 U. S. 451, 467-499, dissenting opinion). It includes, *inter alia*, the sanctity of thought and belief of the individual that is protected by the First and Fifth Amendments. As Mr. Justice Holmes said in *Milwaukee Pub. Co. v. Burleson*, 255 U. S. 407, 437 (dissenting) "the use of the mails is almost as much a part of free speech as the right to use our tongues." Under our regime the right to use the mail free of censorship is basic whether the censor be a federal official working for the post office or a federal official working for the Department of Justice. The problem is squarely raised here, free from all problems of prison security.

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For The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackman  
Mr. Justice Rehnquist

2nd DRAFT

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