

The Burger Court Opinion Writing Database

Alexander v. “Americans United” Inc.
416 U.S. 752 (1974)

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

April 9, 1974

Personal

Re: No. 72-1371 - Alexander v. Americans United
No. 72-1470 - Bob Jones University v. Schultz

Dear Lewis:

I will defer action in these cases until I see
the dissent.

Regards,

Mr. Justice Powell

WJ 13

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

CHAMBERS OF
THE CHIEF JUSTICE

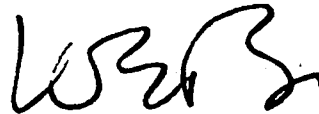
May 8, 1974

Re: 72-1371 - Alexander v. "Americans United"

Dear Lewis:

Please join me.

Regards,

A handwritten signature in dark ink, appearing to be 'WB', is written below the typed word 'Regards,'.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 11, 1974

RE: No. 72-1371 Alexander v. "Americans
United, Inc. et al.

Dear Lewis:

I agree.

Sincerely,

Bill

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 11, 1974

Re: No. 72-1371, Commissioner v.
"Americans United" Inc.

Dear Lewis,

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

Sincerely yours,

P.S.
✓

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

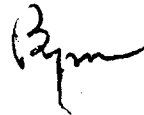
March 14, 1974

Re: No. 72-1371 - Alexander v. "Americans
United" Inc.

Dear Lewis:

Join me, please.

Sincerely,



Mr. Justice Powell

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 11, 1974

Re: No. 72-1371 -- Commissioner v. "Americans United"
Inc.

Dear Lewis:

Please join me.

Sincerely,

T.M.
T.M.

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 11, 1974

Dear Lewis:

Re: No. 72-1371 - Alexander v. "Americans United"

In due course I shall be writing a dissent in this case.

I hope you will give me a few days for this.

Sincerely,

A handwritten signature in cursive script, appearing to read "Harry", with a long horizontal flourish extending to the right.

Mr. Justice Powell

Copies to the Conference

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan ✓
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Powell
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Justice: Blackmun, J.

No. 72-1371

Circulated: 4/17/74

Recirculated: _____

Donald C. Alexander, Commis- sioner of Internal Reve- nue, Petitioner, v. "Americans United" Inc.	} On Writ of Certiorari to the United States Court of Appeals for the District of Colum- bia Circuit.
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[April —, 1974]

MR. JUSTICE BLACKMUN, dissenting.

Finding myself in solitary dissent in this "tax" case, I am somewhat diffident about expressing views contrary to those the Court apparently has reached so easily. I do so only because I am disturbingly aware of the overwhelming power of the Internal Revenue Service. This power is such that its mere exercise often freezes tax status so as to endanger the existence of philanthropic organizations and the public benefits they secure, merely because the path to judicial review is so discouragingly long and expensive. I write primarily, therefore, to express what I feel is a needed word of caution about governmental power where the means to challenge that power are unfavorable and unsatisfactory at best.

I

"Americans United" Inc. (AU) is a District of Columbia nonprofit educational corporation organized in 1948. For almost 18 years AU was formally recognized by the Service as exempt from federal income tax under § 501 (c) (3) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c) (3),¹ and its predecessor, § 101 (6) of the Internal Revenue Code of 1939.

¹ AU's exemption ruling, under § 101 (6) of the 1939 Code, was

✓
LFP
Please for me
21

To: The Chief Justice ✓
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
- Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist

1st DRAFT

SUPREME COURT OF THE UNITED STATES

From: Powell, J.

Circulated: MAR 8 1974

No. 72-1371

Recirculated: _____

Donald C. Alexander, Commis-	} On Writ of Certiorari
sioner of Internal Reve-	
nue, Petitioner,	
v	
"Americans United" Inc. et al.	to the United States Court of Appeals for the District of Colum- bia Circuit.

[March —, 1974]

MR. JUSTICE POWELL delivered the opinion of the Court.

Respondent is a nonprofit, educational corporation organized under the laws of the District of Columbia as "Protestants and Other Americans United for Separation of Church and State." Its purpose is to defend and maintain religious liberty in the United States by the dissemination of knowledge concerning the constitutional principle of the separation of church and State. In 1950, the Internal Revenue Service issued a ruling letter that respondent qualified as a tax-exempt organization under the predecessor provision to § 501 (c)(3) of the Internal Revenue Code of 1954 (the Code), 26 U. S. C. § 501 (c)(3).¹ As a result, the Service treated contributions to

¹ The predecessor provision of Code § 501 (c)(3) was § 401 (6) of the Internal Revenue Code of 1939. Section 501 (c)(3) describes the following as organizations exempt from federal income taxes by virtue of § 501 (a):

"Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literacy or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying

March 11, 1974

No. 72-1371 Alexander v. "Americans United"

Dear Harry:

Please take as long as you like with your dissent.
There is no reason to rush or to feel under any pressure.

Sincerely,

Mr. Justice Blackmun

LFP/gg

To: The Chief Justice
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist

2nd DRAFT

SUPREME COURT OF THE UNITED STATES From: Powell, J.

No. 72-1371

Circulated: _____

Recirculated: **MAR 15 1974**

Donald C. Alexander, Commis- } On Writ of Certiorari
sioner of Internal Reve- } to the United States
nue, Petitioner, } Court of Appeals for
v. } the District of Colum-
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To: The Chief Justice
 Mr. Justice Douglas
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Rehnquist

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Powell, J.

Circulated:

No. 72-1371

Recirculated: APR 19 1974

Donald C. Alexander, Commis- sioner of Internal Reve- nue, Petitioner, v. "Americans United" Inc.	}	On Writ of Certiorari to the United States Court of Appeals for the District of Colum- bia Circuit.
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[April — 1974]

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P. 10

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

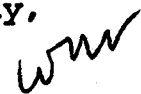
March 15, 1974

Re: No. 72-1371 - Alexander v. "Americans United"

Dear Lewis:

Please join me in your opinion for the Court.

Sincerely,



Mr. Justice Powell

Copies to the Conference