

# The Burger Court Opinion Writing Database

## *Anderson v. United States*

417 U.S. 211 (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

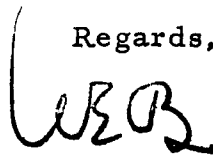
May 7, 1974

Re: No. 73-346 - Anderson, et al v. United States

Dear Thurgood:

Please join me.

Regards,



Mr. Justice Marshall

Copies to the Conference

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To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Black  
Mr. Justice Douglas  
Mr. Justice Harlan  
Mr. Justice Marshall  
Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Souter  
Mr. Justice Kagan  
Mr. Justice Alito  
Mr. Justice Gorsuch  
Mr. Justice Kavanaugh  
Mr. Justice Barrett

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 73-346

From: Douglas, J.

Circulation: 5-24

William N. Anderson et al.,  
Petitioners,  
v.  
United States.

On Writ of Certiorari to the  
United States Court of  
Appeals for the Fourth  
Circuit.

[May —, 1974]

MR. JUSTICE DOUGLAS, dissenting.

Petitioners were convicted under 18 U. S. C. § 241, which imposes criminal penalties when "two or more persons conspire to injure . . . any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution . . ." The Court of Appeals affirmed, *United States v. Anderson*, 481 F. 2d 685, and this Court granted certiorari to consider whether a conspiracy to cast fraudulent votes in a state election, without any evidence of racial discrimination, could constitute a federal offense under § 241. The Court of Appeals reached the substance of this question, holding that the Federal Government had the power under § 241 to punish not only conspiracies to poison federal elections, but also conspiracies in which state officials took part to cast false votes in a state or local election. 481 F. 2d, at 698-700. The Court today avoids the issue squarely presented by petitioners and by the decision of the Court of Appeals, concluding that it need not reach the issue because the evidence "bears out the verdict that each of the petitioners engaged in the conspiracy with the intent of having false votes cast for . . . federal officers."

After reviewing the record, I am left with the conviction that the Court, in affirming on the theory that petitioners agreed as a part of their conspiracy to have false

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

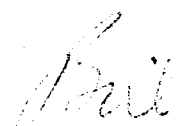
May 30, 1974

RE: No. 73-346 Anderson v. United States

Dear Bill:

Please join me in your dissenting  
opinion in the above.

Sincerely,



Mr. Justice Douglas

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 26, 1974

73-346, Anderson v. U. S.

Dear Thurgood,

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

Sincerely yours,



Mr. Justice Marshall

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

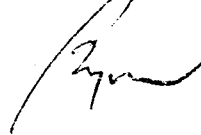
April 30, 1974

Re: No. 73-346 - Anderson v. United States

Dear Thurgood:

Please join me.

Sincerely,



Mr. Justice Marshall

Copies to Conference

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

1st DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: APR 26 1974

No. 73-346

Recirculated: \_\_\_\_\_

William N. Anderson et al., } On Writ of Certiorari to the  
Petitioners, } United States Court of  
v. } Appeals for the Fourth  
United States. } Circuit.

[May —, 1974]

MR JUSTICE MARSHALL delivered the opinion of the Court.

Petitioners were convicted of violating 18 U. S. C. § 241 which, in pertinent part, makes it unlawful for two or more persons to "conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States . . . ." Specifically, the Government proved that petitioners engaged in a conspiracy to cast fictitious votes for candidates for federal, state, and local offices in a primary election in Logan County, West Virginia. At the trial, a question arose concerning the admissibility against all of the petitioners of certain out-of-court statements made by some of them. In considering the propriety of the District Court's decision to admit this evidence, the Court of Appeals thought it necessary to resolve the question whether a conspiracy to cast false votes in a state or local election, as opposed to a conspiracy to cast false votes in a federal election, is unlawful under § 241. The Court of Appeals affirmed petitioners' convictions, concluding that § 241 encompasses "conspiracies, involving state action at least, to dilute the effect of ballots cast for the candidate of one's choice in wholly state

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

2nd DRAFT

From: Marshall, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: \_\_\_\_\_

No. 73-346

Recirculated: **MAY 1** 1974

William N. Anderson et al., } On Writ of Certiorari to the  
Petitioners, } United States Court of  
v. } Appeals for the Fourth  
United States. } Circuit.

[May 1, 1974]

MR JUSTICE MARSHALL delivered the opinion of the Court.

Petitioners were convicted of violating 18 U. S. C. § 241 which, in pertinent part, makes it unlawful for two or more persons to "conspire to injure, oppress, threaten, or intimidate any citizen in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States." Specifically, the Government proved that petitioners engaged in a conspiracy to cast fictitious votes for candidates for federal, state, and local offices in a primary election in Logan County, West Virginia. At the trial, a question arose concerning the admissibility against all of the petitioners of certain out-of-court statements made by some of them. In considering the propriety of the District Court's decision to admit this evidence, the Court of Appeals thought it necessary to resolve the question whether a conspiracy to cast false votes in a state or local election, as opposed to a conspiracy to cast false votes in a federal election, is unlawful under § 241. The Court of Appeals affirmed petitioners' convictions, concluding that § 241 encompasses "conspiracies, involving state action at least, to dilute the effect of ballots cast for the candidate of one's choice in wholly state



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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 30, 1974

Dear Thurgood:

Re: No. 73-346 - Anderson v. United States

Please join me.

Sincerely,

A handwritten signature in dark ink, appearing to read "H. Blackmun", with a horizontal line drawn underneath it.

Mr. Justice Marshall

Copies to the Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 27, 1974

No. 73-346 Anderson v. United States

Dear Thurgood:

Please join me.

Sincerely,

*Lewis*

Mr. Justice Marshall

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

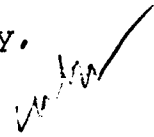
May 6, 1974

Re: No. 73-346 - Anderson v. United States

Dear Thurgood:

Please join me in your opinion for the Court in this case.

Sincerely,



Mr. Justice Marshall

Copies to the Conference