

The Burger Court Opinion Writing Database

*National Muffler Dealers Association, Inc.
v. United States*
440 U.S. 472 (1979)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

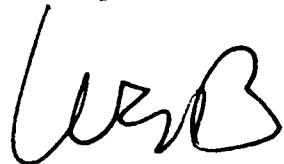
March 13, 1979

Re: 77-1172 - Natl. Muffler Dealers Assn., Inc.
v. U.S.

Dear Harry:

I join.

Regards,



Mr. Justice Blackmun

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

March 1, 1979

RE: No. 77-1172 National Muffler Dealers Assn., Inc.
v. United States

Dear Harry:

I agree.

Sincerely,



Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE POTTER STEWART

March 1, 1979

Re: 77-1172 - National Muffler Dealers Assn. v.
United States

Dear Harry:

I shall as promptly as possible circulate a
brief dissenting statement.

Sincerely yours,

P.S.
1.

Mr. Justice Blackmun

Copies to the Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

02 MAR 1979

Circulated: _____

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1172

National Muffler Dealers Association, Inc., Petitioner,

v.

United States.

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

[March —, 1979]

MR. JUSTICE STEWART, dissenting.

I would reverse the judgment for substantially the reasons expressed by the Court of Appeals for the Seventh Circuit in *Pepsi-Cola Bottlers' Assn. v. United States*, 369 F. 2d 250 (1966). Additionally, I note that the initial administrative interpretation of the statute in the Treasury regulations was exactly the opposite of the one now urged. *Ante*, at 8-9. That is strong evidence of the understanding of the meaning of the law at the time it was enacted.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: _____

05 MAR 1979

2nd DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 77-1172

National Muffler Dealers Association, Inc., Petitioner,

v.

United States.

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

[March —, 1979]

MR. JUSTICE STEWART, with whom MR. JUSTICE REHNQUIST and MR. JUSTICE STEVENS join, dissenting.

I would reverse the judgment for substantially the reasons expressed by the Court of Appeals for the Seventh Circuit in *Pepsi-Cola Bottlers' Assn. v. United States*, 369 F. 2d 250 (1966). Additionally, I note that the initial administrative interpretation of the statute in the Treasury regulations was exactly the opposite of the one now urged. *Ante*, at 8-9. That is strong evidence of the understanding of the meaning of the law at the time it was enacted.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 1, 1979

Re: No. 77-1172 — National Muffler Dealers
Association, Inc. v. United States

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

Copies to the Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

March 1, 1979

Re: No. 77-1172-National Muffler Dealers
Association, Inc. v. U.S.

Dear Harry:

Please join me.

Sincerely,



T.M.

Mr. Justice Blackmun

cc: The Conference

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

From: Mr. Justice Blackmun

Circulated: 28 FEB 1979

1st DRAFT

Recirculated: _____

SUPREME COURT OF THE UNITED STATES

No. 77-1172

National Muffler Dealers Association, Inc., Petitioner,
 v.
 United States. } On Writ of Certiorari to the
 } United States Court of Appeals for the Second Circuit.

[March —, 1979]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

Petitioner, National Muffler Dealers Association, Inc. (Association), is a trade association for muffler dealers. The issue in this case is whether the Association, which has confined its membership to dealers franchised by Midas International Corporation (Midas), and its activities to the Midas muffler business, and thus is not "industry-wide," is a "business league" entitled to the exemption from federal income tax provided by § 501 (c)(6) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c)(6).¹

I

In 1971, during a contest for control of Midas, Midas Muffler franchisees organized the Association under the New York Not-for-Profit Corporation Law. The Association's purpose was to establish a group to negotiate unitedly with Midas management. Its principal activity has been to serve as a bargaining agent for its members in dealing with Midas. It

¹ The Statute exempts:

"Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players) not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

✓

typographical changes
X p. 16 TAB
BROW
Please give me
TM

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

From: Mr. Justice Blackmun

Circulated: _____

Recirculated: 1 MAR 1979

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1172

National Muffler Dealers Association, Inc., Petitioner,
v.
United States.

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

[March —, 1979]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

Petitioner, National Muffler Dealers Association, Inc. (Association), is a trade association for muffler dealers. The issue in this case is whether the Association, which has confined its membership to dealers franchised by Midas International Corporation (Midas), and its activities to the Midas muffler business, and thus is not "industry-wide," is a "business league" entitled to the exemption from federal income tax provided by § 501 (c)(6) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c)(6).¹

I

In 1971, during a contest for control of Midas, Midas muffler franchisees organized the Association under the New York Not-for-Profit Corporation Law. The Association's purpose was to establish a group to negotiate unitedly with Midas management. Its principal activity has been to serve as a bargaining agent for its members in dealing with Midas. It

¹ The statute exempts:

"Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players) not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

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

From: Mr. Justice Blackmun

Circulated:

Recirculated: 2 MAR 1970

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1172

National Muffler Dealers Association, Inc., Petitioner, v. United States. } On Writ of Certiorari to the United States Court of Appeals for the Second Circuit.

[March —, 1979]

MR. JUSTICE BLACKMUN delivered the opinion of the Court.

Petitioner, National Muffler Dealers Association, Inc. (Association), as its name indicates, is a trade organization for muffler dealers. The issue in this case is whether the Association, which has confined its membership to dealers franchised by Midas International Corporation (Midas), and its activities to the Midas muffler business, and thus is not "industry-wide," is a "business league" entitled to the exemption from federal income tax provided by § 501 (c)(6) of the Internal Revenue Code of 1954, 26 U. S. C. § 501 (c)(6).¹

I

In 1971, during a contest for control of Midas, Midas muffler franchisees organized the Association under the New York Not-for-Profit Corporation Law. The Association's purpose was to establish a group to negotiate unitedly with Midas management. Its principal activity has been to serve as a bargaining agent for its members in dealing with Midas. It

¹ The statute exempts:

"Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players) not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 5, 1979

77-1172 National Muffler Dealers v. U.S.

Dear Harry:

Please join me.

Sincerely,



Mr. Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 2, 1979

Re: No. 77-1172 National Muffler Dealers Assoc. v.
United States

Dear Potter:

Please join me in your dissenting opinion.

Sincerely,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 2, 1979

Re: 77-1172 - National Muffler Dealers
Association v. United States

Dear Potter:

Please join me.

Respectfully,



Mr. Justice Stewart

Copies to the Conference