

# The Burger Court Opinion Writing Database

*Andrus v. Glover Construction Co.*

446 U.S. 608 (1980)

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

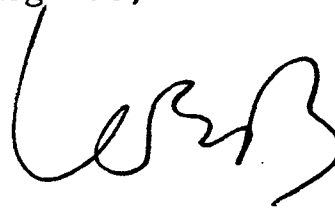
May 21, 1980

Re: 79-48 - Cecil D. Andrus, Secretary of the  
Interior, et al v. Glover Construction Co.

Dear Potter:

I join.

Regards,



Mr. Justice Stewart

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

March 31, 1980

RE: No. 79-48 Andrus v. Glover Construction Co.

Dear Byron and Thurgood:

I voted with you to reverse in the above but I am not sure that I'll not change. Would you be willing to decide which of you should attempt the dissent?

Sincerely,

*Bill*

Mr. Justice White

Mr. Justice Marshall

*Handwritten notes and a large diagonal line crossing out the bottom half of the page.*

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

May 9, 1980

RE: No. 79-48 Andrus v. Glover Construction Co.

Dear Thurgood:

Byron and I are inclined to go along with this.  
If you intend to write in dissent, however, I'll  
await your dissent.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill".

Mr. Justice Marshall

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

May 21, 1980

RE: No. 79-48 Andrus v. Glover Construction Co.

Dear Potter:

I agree.

Sincerely,

*Bill*

Mr. Justice Stewart

cc: The Conference

To: The Chief Justice  
Mr. Justice Brannan  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Frankfurter  
Mr. Justice Stevens

From: Mr. Justice Stewart

Circulated: 8 MAY 1980

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

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 79-48

Cecil D. Andrus, Secretary of  
the Interior, et al.,  
Petitioners,  
v.  
Glover Construction Company,

On Writ of Certiorari to the  
United States Court of Ap-  
peals for the Tenth Circuit.

[May —, 1980]

MR. JUSTICE STEWART delivered the opinion of the Court.

The Buy Indian Act, 25 U. S. C. § 47, directs the Secretary of the Interior to employ Indian labor "[s]o far as may be practicable," and permits him to purchase "the products of Indian industry . . . in open market."<sup>1</sup> The question presented in this case is whether the Bureau of Indian Affairs (BIA) of the Department of the Interior<sup>2</sup> may, on the authority of this legislation, enter into road construction contracts with Indian-owned companies without first advertising for bids pursuant to Title III of the Federal Property and Administrative Services Act of 1949 (FPASA), as amended, 41 U. S. C. §§ 251-260.

### I

In 1976, the BIA formally adopted the procurement policy that "all [BIA] purchases or contracts be made or entered into with qualified Indian contractors to the maximum practica-

<sup>1</sup> 25 U. S. C. § 47 provides in full:

"So far as may be practicable Indian labor shall be employed, and purchases of the products of Indian industry may be made in open market in the discretion of the Secretary of the Interior."

<sup>2</sup> The Secretary of the Interior has delegated his responsibilities and powers under the Act to the Commissioner of the Bureau of Indian Affairs.

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To: Mr. Chief Justice  
Mr. Justice Brennan  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist  
Mr. Solicitor General

From: Mr. Justice Stewart

Circulated: \_\_\_\_\_

2nd DRAFT

Recirculated: 15 May 1980

## SUPREME COURT OF THE UNITED STATES

No. 79-48

Cecil D. Andrus, Secretary of  
the Interior, et al.,  
Petitioners,  
v.  
Glover Construction Company.

On Writ of Certiorari to the  
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<sup>2</sup> The Secretary of the Interior has delegated his responsibilities and powers under the Act to the Commissioner of the Bureau of Indian Affairs.

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 31, 1980

Re: 79-48 - Andrus v. Glover Construction  
Company

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Dear Bill:

My vote was shaky, also, and I shall  
wait for the majority opinion before de-  
ciding whether I shall be in dissent.

Sincerely yours,



Mr. Justice Brennan  
cc: Mr. Justice Marshall



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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

May 13, 1980

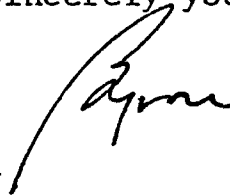
Re: 79-48 - Andrus v. Glover Construction  
Company

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Dear Potter,

My vote the other way was tentative  
and your circulating draft seems truer to  
congressional intent. Hence, I join.

Sincerely yours,



Mr. Justice Stewart

Copies to the Conference

cmc

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

April 1, 1980

Re: No. 79-48 - Andrus v. Glover Construction Co.

Dear Bill:

I remain in "dead center".

Sincerely,

*J.M.*

T.M.

Mr. Justice Brennan

cc: Mr. Justice White

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 14, 1980

Re: No. 79-48 - Andrus v. Glover Construction Co.

Dear Potter:

Please join me.

Sincerely,

*JM.*

T.M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

May 13, 1980

Re: No. 79-48 - Andrus v. Glover Construction Company

Dear Potter:

Please join me.

Sincerely,

A handwritten signature in dark ink, appearing to be "H.A.B.", with a horizontal line underneath.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 12, 1980

79-48 Andrus v. Glover

Dear Potter:

Please join me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lewis".

Mr. Justice Stewart

lfp/ss

cc: The Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 9, 1980

Re: No. 79-48 Andrus v. Glover Construction Co.

Dear Potter:

Please join me.

Sincerely,



Mr. Justice Stewart

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

May 8, 1980

Re: 79-48 - Andrus v. Glover Const. Co.

Dear Potter:

Please join me.

Respectfully,



Mr. Justice Stewart

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