

# The Burger Court Opinion Writing Database

## *Federal Election Commission v. Democratic Senatorial Campaign Committee*

454 U.S. 27 (1981)

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

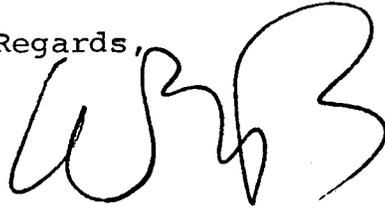
November 3, 1981

Re: Nos. 80-939 and 80-1129 - FEC and National  
Republican Senatorial Committee v. Democratic  
Senatorial Campaign Committee

Dear Byron:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'WJB', written over the typed word 'Regards,'.

Justice White

CC: The Conference

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

October 29, 1981

RE: Nos. 80-939 and 80-1129 F.E.C. & National Republican  
Senatorial Committee v. Democratic Senatorial Campaign  
Committee

Dear Byron:

I agree.

Sincerely,



Justice White

cc: The Conference

To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

From: Justice White

Circulated: 28 OCT 1981

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 80-939 AND 80-1129

FEDERAL ELECTION COMMISSION, PETITIONER  
80-939  
v.  
DEMOCRATIC SENATORIAL CAMPAIGN  
COMMITTEE ET AL.

NATIONAL REPUBLICAN SENATORIAL  
COMMITTEE, PETITIONER  
80-1129  
v.  
DEMOCRATIC SENATORIAL CAMPAIGN  
COMMITTEE

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED  
STATES COURT OF APPEALS FOR THE DISTRICT OF  
COLUMBIA CIRCUIT

[October —, 1981]

JUSTICE WHITE delivered the opinion of the Court.

The Federal Election Campaign Act of 1971, as amended, 2 U. S. C. § 431 *et seq.*, limits the contributions that may be made to candidates' political committees in an election for federal office. One provision of the Act, § 441a(d), authorizes limited expenditures by the national and state committees of a political party in connection with the general election campaign for federal office. After authorizing such expenditures, which otherwise would be impermissible,<sup>1</sup> the section

<sup>1</sup>The Act provides that an expenditure made "in cooperation, consultation or concert with, or at least the request or suggestion of a candidate, his authorized committees or their agents, shall be considered to be a contribution to that candidate." § 441a(7)(B)(i). Expenditures by party

- pp. 1,2,7,8 and stylistic  
changes throughout -

To: The Chief Justice  
Justice Brennan  
Justice Marshall  
Justice Blackmun  
Justice Powell  
Justice Rehnquist  
Justice Stevens  
Justice O'Connor

0\$0939D rev. 2-NOV-81 DRB

From: Justice White

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

Recirculated: 2 NOV 1981

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

Nos. 80-939 AND 80-1129

FEDERAL ELECTION COMMISSION, PETITIONER  
80-939

v.

DEMOCRATIC SENATORIAL CAMPAIGN  
COMMITTEE ET AL.

NATIONAL REPUBLICAN SENATORIAL  
COMMITTEE, PETITIONER  
80-1129

v.

DEMOCRATIC SENATORIAL CAMPAIGN  
COMMITTEE

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<sup>1</sup> Expenditures by party committees are known as "coordinated" expenditures and are subject to the monetary limits of § 441a (d). See *FEC Record*, Nov. 1980 ed., p. 6. Party committees are considered incapable of making "independent" expenditures in connection with the campaigns of

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

October 30, 1981

Re: Nos. 80-939 and 80-1129 - FEC and National  
Republican Senatorial Committee v. Democratic  
Senatorial Campaign Committee

Dear Byron:

Please join me.

Sincerely,

*J.M.*  
T.M.

Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

October 29, 1981

Re: No. 80-939) - FEC v. Democratic Senatorial  
Campaign Committee  
No. 80-1129) - National Republican Committee  
v. Democratic Senatorial Campaign Committee

Dear Byron:

Please join me.

Sincerely,



Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

October 29, 1981

80-939 and 80-1129 Federal Election Commission v.  
Democratic Senatorial Campaign Committee and National  
Republican Senatorial Committee v. Democratic Senatorial  
Campaign Committee

Dear Byron:

Please join me.

Sincerely,



Justice White

Copies to the Conference

LFP/vde

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

October 30, 1981

Re: No. 80-939 Federal Election Commission v.  
Democratic Senatorial Campaign Committee, et al.

Dear Byron:

Please join me in your proposed draft in the opinion  
in this case.

Sincerely,



Justice White

Copies to the Conference

To: The Chief Justice  
 Justice Brennan  
 Justice White  
 Justice Marshall  
 Justice Blackmun  
 Justice Powell  
 Justice Rehnquist  
 Justice O'Connor

0\$0939I 02-NOV-81 drb

From: Justice Stevens

Circulated: NOV 3 '81

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

1st DRAFT

## SUPREME COURT OF THE UNITED STATES

Nos. 80-939 AND 80-1129

FEDERAL ELECTION COMMISSION, PETITIONER,  
 80-939

v.

DEMOCRATIC SENATORIAL CAMPAIGN  
 COMMITTEE ET AL.

NATIONAL REPUBLICAN SENATORIAL  
 COMMITTEE, PETITIONER

80-1129

v.

DEMOCRATIC SENATORIAL CAMPAIGN  
 COMMITTEE

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF  
 APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[November —, 1981]

JUSTICE STEVENS, concurring.

The issue presented in this case is whether the National Republican Senatorial Committee (NRSC) violated the Federal Election Campaign Act by making expenditures that State political committees are authorized to make under § 441a (d) (3) of the Act. Section § 441a (d) (3) authorizes "the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee," to make certain expenditures in connection with a candidate's general election campaign, subject to defined limitations. Since the NRSC clearly is not "the national committee of a political party,"<sup>1</sup> or "a State

<sup>1</sup>Section 431 (14) of the Act defines the term "national committee" as "the organization which, by virtue of the bylaws of a political party, is re-

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

October 29, 1981

No. 80-939    FEC v. Democratic Senatorial Campaign Committee  
No. 80-1129   National Republican Senatorial Committee v.  
Democratic Senatorial Campaign Committee

Dear Byron,

Please join me in your opinion in the referenced cases.

Sincerely,

*Sandra O'Connor*

Justice White

Copies to the Conference