

The Burger Court Opinion Writing Database

Westinghouse Electric Corp. v. Tully

466 U.S. 388 (1984)

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

April 19, 1984

Re: 81-2394 - Westinghouse Electric Corp. v. Tully, Et al.

Dear Harry:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'LBB', written in a cursive style.

Justice Blackmun

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Supreme Court of the United States
SUP. COURT, WASHINGTON, D.C. 20543
JUSTICE BLACKMUN

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

'84 APR 16 AM 11:32

April 16, 1984

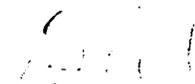
No. 81- 2394

Westinghouse Electric Corporation
v. James H. Tully, Jr., et al.

Dear Harry,

I agree.

Sincerely,



Justice Blackmun

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 19, 1984

Re: 81-2394 - Westinghouse Electric
Corporation v. Tully

Dear Harry,

Please join me.

Sincerely yours,



Justice Blackmun

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cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 16, 1984

Re: No. 81-2394-Westinghouse Electric Corp. v.
James H. Tully, Jr., et al.

Dear Harry:

Please join me.

Sincerely,

T.M.
T.M.

Justice Blackmun

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

From: **Justice Blackmun**

Circulated: APR 12 1984

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-2394

**WESTINGHOUSE ELECTRIC CORPORATION v.
JAMES H. TULLY, JR., ET AL.**

ON APPEAL FROM THE COURT OF APPEALS OF NEW YORK

[April —, 1984]

JUSTICE BLACKMUN delivered the opinion of the Court.

In this case, we are confronted with the question of the constitutionality of a franchise tax credit afforded by the State of New York to certain income of Domestic International Sales Corporations.

I

The tax credit in issue was enacted as part of the New York Legislature's response to additions and changes in the United States Internal Revenue Code of 1954 effectuated by the Revenue Act of 1971, Pub. L. 92-178, §§ 501-507, 85 Stat. 535. In an effort to "provide tax incentives for U. S. firms to increase their exports," H. R. Rep. No. 92-533, p. 9 (1971); S. Rep. No. 92-437, p. 12 (1971), Congress gave special recognition to a corporate entity it described as a "Domestic International Sales Corporation" or "DISC." §§ 991-997 of the Code, 26 U. S. C. §§ 991-997. A corporation qualifies as a DISC if substantially all its assets and gross receipts are export-related. § 992(a), 993.¹ Under

¹Specifically, § 992(a)(1) provides that a corporation qualifies for DISC treatment for any taxable year in which it

"is incorporated under the laws of any State and satisfies the following conditions for the taxable year:

"(A) 95 percent or more of the gross receipts (as defined in section 993(f)) of such corporation consist of qualified export receipts (as defined in section 993(a)),

7146

April 19, 1984

Dear John:

Re: No. 81-2394 - Westinghouse Electric Corp. v. Tully

This is in response to your note of April 13. Your suggestion is a good one. I shall change the word "assumption" to "holding" and shall add the following after the first word in the last line on page 9 of the opinion: "See _____ U.S. _____ (1983) (dismissing for want of a substantial federal question Westinghouse's challenge to the method of allocating DISC income to parent)."

Sincerely,

HAB

Justice Stevens

STYLISTIC CHANGES
pp. 4, 9-10, 12, 13

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

From: Justice Blackmun

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-2394

WESTINGHOUSE ELECTRIC CORPORATION *v.*
JAMES H. TULLY, JR., ET AL.

ON APPEAL FROM THE COURT OF APPEALS OF NEW YORK

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JUSTICE MARSHALL

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

'84 APR 16 P3:52

April 16, 1984

81-2394 Westinghouse v. Tully

Dear Harry:

Please join me.

Sincerely,



Justice Blackmun

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

April 17, 1984

Re: No. 81-2394 Westinghouse Electric Corp. v. Tully

Dear Harry:

Please join me.

Sincerely,



Justice Blackmun

cc: The Conference

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

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JUSTICE PAUL HALL

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

'84 ABR 13 P1:54

April 13, 1984

Re: 81-2394 - Westinghouse Electric Corp. v.
Tully

Dear Harry:

Please join me.

Respectfully,



Justice Blackmun

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Washington, D. C. 20543

RECEIVED
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JUSTICE MARSHALL

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

'84 ABR 16 A11:32

April 16, 1984

No. 81-2394 Westinghouse Electric Corp.
v. Tully

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

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