

The Burger Court Opinion Writing Database

Russell v. United States

471 U.S. 858 (1985)

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



2

✓

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

CHAMBERS OF
THE CHIEF JUSTICE

May 23, 1985

RE: 84-435 - Russell v. United States

Dear John:

I join.



Regards,

Justice Stevens

Copies to the Conference

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

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 21, 1985

No. 84-435

Russell v. United States

Dear John,

I agree.

Sincerely,

Bill

Justice Stevens

Copies to the Conference

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

M
CHAMBERS OF
JUSTICE BYRON R. WHITE

May 22, 1985

84-435 - Russell v. United States

Dear John,

I agree.

Sincerely,



Justice Stevens

Copies to the Conference

6

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 21, 1985

Re: No. 84-435-Russell v. United States

Dear John:

Please join me.

Sincerely,

JM
T.M.

Justice Stevens

cc: The Conference

17
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 21, 1985

Re: No. 84-435, Russell v. United States

Dear John:

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

6

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 21, 1985

84-435 Russell v. United States

Dear John:

Please join me.

Sincerely,



Justice Stevens

lfp/ss

cc: The Conference

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

2

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 20, 1985

Re: No. 84-435 Russell v. United States

Dear John,

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

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

From: **Justice Stevens**

Circulated: _____

Recirculated: _____

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES:

MAY 27 1985

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 84-435

ROBERT RUSSELL, PETITIONER *v.* UNITED STATES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SEVENTH CIRCUIT

[May —, 1985]

JUSTICE STEVENS delivered the opinion for the Court.

The question presented is whether 18 U. S. C. § 844(i) applies to a two-unit apartment building that is used as rental property.

Petitioner owns an apartment building located at 4530 South Union, Chicago, Illinois. He earned rental income from it and treated it as business property for tax purposes. In early 1983, he made an unsuccessful attempt to set fire to the building¹ and was consequently indicted for violating § 844(i). Following a bench trial, petitioner was convicted and sentenced to 10 years' imprisonment. The District Court² and the Court of Appeals³ both rejected his contention that the building was not commercial or business property, and therefore was not capable of being the subject of an offense under § 844(i).

Section 844(i) uses broad language to define the offense. It provides:

¹ Petitioner hired Ralph Branch, a convicted felon, to start a fire in the building by using a natural gas line in the basement. Branch attempted to start a fire by lighting a potato-chip bag and a piece of wood, but was unsuccessful in torching the building. 1 Tr. 35-39. Petitioner asked Branch to make a second attempt; however, Branch reported the events to the FBI and consented to tape record a conversation with petitioner. After the conversation, petitioner was arrested. The fire was never set. *Id.*, at 41-50.

² 563 F. Supp. 1085 (ND Ill., ED 1983).

³ 738 F. 2d 825 (CA7 1984).

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

0

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 20, 1985

No. 84-435 Russell v. United States

Dear John,

Please join me.

Sincerely,



Justice Stevens

Copies to the Conference