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SCOTUS Upholds Civil Rights Precedent Securing Free Association Rights in NCLA’s Sixth *Amicus* Win

Americans for Prosperity Foundation v. Robert Bonta in his official capacity as Attorney General of California;
Thomas More Law Center v. Robert Bonta in his official capacity as Attorney General of California

Washington, DC (July 1, 2021) – In an early present to celebrate Independence Day, the U.S. Supreme Court recognized the blatant abuse of administrative power by a series of California attorneys-general in *Americans for Prosperity Foundation v. Robert Bonta*. Chief Justice Roberts, writing for a 6-3 Court divided along ideological lines, [held](#) that the California Attorney General’s donor-disclosure policy for nonprofits—which began under Kamala Harris and continued under Xavier Becerra—is facially unconstitutional because it burdens donors’ First Amendment Rights and is not narrowly tailored to an important government interest.

Starting in 2010, California’s attorney-general imposed a new, binding obligation on charities to turn over a list of their major supporters—without authority from the state legislature. There “was not ‘a single concrete instance in which pre-investigation collection of [donor information] did anything to advance the Attorney General’s investigative, regulatory, or enforcement efforts,’” said Roberts in the majority opinion. “In reality, then, California’s interest is less in investigating fraud and more in ease of administration. This interest, however, cannot justify the disclosure requirement.”

Chief Justice Roberts also acknowledged the gravity of the privacy concerns demonstrated by the filings of scores of organizations as *amici curiae* spanning the ideological spectrum. Today’s Supreme Court ruling reaffirms our nation’s commitment to the bedrock civil rights legacy established in the landmark case *NAACP v. Alabama ex rel. Patterson*, which protects First Amendment rights to free association and privacy and anonymity in one’s associations.

Requiring these groups to turn over a list of their major supporters to the California Attorney General for their various charitable endeavors would violate the First Amendment of the United States Constitution. Further, it would erode the Constitution’s structural provisions and guarantees of rights that safeguard minorities and unpopular minority opinions. The First Amendment does far more than protect dissident organizations from direct government coercion. It also stops the government from enabling the bullying and intimidation wrought by private citizens against others who anonymously join together to express unpopular views through an organization.

The New Civil Liberties Alliance, a nonpartisan, nonprofit civil rights group, filed three [amicus briefs](#) along the way in support of the petitioners in this case to defend the associational freedom and anonymity principles laid out in *NAACP*. With today’s victory, NCLA has earned an unblemished 6-0 record for *amicus curiae* briefs filed against the Administrative State for the Supreme Court’s October 2020 term.

NCLA released the following statements:

“It is hard to overstate how much a different decision in this case would have chilled the cause of freedom. NCLA is relieved that the Supreme Court agreed with us that *NAACP v. Alabama*’s holding remains as good an idea for

minority opinions threatened by California’s attorney-general today as it was for minorities threatened by Alabama’s attorney-general in 1958. Today’s powerful officials are picking different targets, but thankfully the same Constitution protects associational rights across the political and cultural spectrum.”

— **Mark Chenoweth, Executive Director and General Counsel, NCLA**

“It’s heartening to know that *NAACP v. Alabama*’s legacy as a cornerstone of the civil rights movement continues. The Supreme Court’s rebuke of California’s state-sponsored cancel culture echoed NCLA’s argument: minority viewpoints and interests must have refuge from ridicule and persecution, especially in today’s polarized society. *AFPP v. Bonta* is a refuge that will protect our freedom to associate and our right to privacy in our associations for generations to come.”

— **Michael DeGrandis, Senior Litigation Counsel, NCLA**

“I am pleased that the Court reaffirmed *NAACP v. Alabama* and struck down California’s donor-disclosure practice. The Court also sharpened the teeth of the exacting-scrutiny standard.”

— **Adi Dynar, Litigation Counsel, NCLA**

For more information visit the case page [here](#).

ABOUT NCLA

[NCLA](#) is a nonpartisan, nonprofit civil rights group founded by prominent legal scholar [Philip Hamburger](#) to protect constitutional freedoms from violations by the Administrative State. NCLA’s public-interest litigation and other pro bono advocacy strive to tame the unlawful power of state and federal agencies and to foster a new civil liberties movement that will help restore Americans’ fundamental rights.

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