

SUPREME COURT OF THE UNITED STATES

No. 91-1526

FERRIS J. ALEXANDER, SR., PETITIONER v. UNITED STATES

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

[June 28, 1993]

JUSTICE SOUTER, concurring in the judgment in part and dissenting in part.

I agree with the Court that petitioner has not demonstrated that the forfeiture at issue here qualifies as a prior restraint as we have traditionally understood that term. I also agree with the Court that the case should be remanded for a determination whether the forfeiture violated the Excessive Fines Clause of the Eighth Amendment. Nonetheless, I agree with JUSTICE KENNEDY that the First Amendment forbids the forfeiture of petitioner's expressive material in the absence of an adjudication that it is obscene or otherwise of unprotected character, and therefore I join Part II of his dissenting opinion.