

On June 30, 1958, the Supreme Court issued a ruling vitally important to the civil rights movement and First Amendment jurisprudence. That day, the high court ruled in [\*NAACP v. Alabama ex. rel. Patterson\*](#) that the state of Alabama could not force the National Association for the Advancement of Colored People to disclose its rank-and-file membership lists.

In 1956, Alabama Attorney General John Patterson filed a lawsuit in state court seeking to bar the NAACP, which had a regional office in Alabama, from operating in the state. Such attempts were not unique to Alabama, as other Southern states also tried various litigation strategies to thwart the effective civil rights advocacy of the NAACP, which they viewed as a group of harmful agitators.

The attorney general contended that the NAACP had violated a state law requiring out-of-state corporations to register and pay state fees for conducting interstate business. The NAACP, based in New York, assumed for many years it was exempt.

Before a court hearing, Alabama filed a motion asking that the NAACP produce numerous types of records, including bank statements, leases, deeds and membership lists, including the names and addresses of rank-and-file members.

Disclosure of membership in the NAACP could have had dramatic consequences for Alabama residents at that time. In his memoir, *A Matter of Law: A Memoir of Struggle in the Cause of Civil Rights*, Robert L. Carter — NAACP general counsel who argued this case — described the harsh consequences of revealing members' names and addresses: "To do so would expose our members to the threats of lost jobs, physical violence, even possible loss of life, and would risk serious danger to their families."

In his memoir, Carter also said he believed the case implicated core First Amendment issues: "I was also certain that our activities, which involved only peaceful protests and activity against racial discrimination imposed and enforced by the state, were protected by the First Amendment."

The NAACP lost in Alabama state court. A trial judge imposed an astronomical fine of \$100,000 for continuing contempt for the civil rights group's alleged violation of the statute. The Alabama Supreme Court twice refused to grant review of this contempt judgment.

However, the U.S. Supreme Court granted review and issued its famous ruling in an opinion by Justice John Marshall Harlan — the grandson of the first Justice John Marshall Harlan, who was known as "the Great Dissenter" for his lone dissents in the odious pro-segregation decisions *The Civil Rights Cases* (1883) and *Plessy v. Ferguson* (1896).

"Inviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association, particularly where a group espouses dissident beliefs," Harlan wrote in *NAACP v. Alabama*. "Petitioner has made an uncontroverted showing that on past occasions revelation of the identity of its rank-

and-file members has exposed these members to economic reprisal, loss of employment, threat of physical coercion, and other manifestations of public hostility.”

To Harlan, the “compelled disclosure” of the membership lists would prohibit those NAACP members from exercising their assembly and association rights under the First Amendment. He concluded that “Alabama has fallen short of showing a controlling justification for the deterrent effect on the free enjoyment of the right to associate which disclosure of membership lists is likely to have.”

Carter, who has been a federal district court judge since 1972, wrote that the decision was a “great victory, but enforcement took years.” It actually took other decisions by the U.S. Supreme Court in the same litigation, culminating in the 1964 *NAACP v. Alabama*, also written by Justice Harlan, to ensure that the state would not attempt to oust the civil rights group from the state.

However, the Court’s decision on June 30, 1958, was a historic decision in many ways. Certainly, the decision sent a message to civil rights activists that the Supreme Court would scrutinize government practices that infringed on constitutional freedoms. The decision also proved important to First Amendment law, recognizing the importance of freedom of association and anonymous expression.

First Amendment expert Robert M. O’Neil, president of the Thomas Jefferson Center for the Protection of Free Expression, said the decision also “marks the Court’s willingness to apply the First Amendment in non-literal contexts ... something other than the spoken or printed word.”