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# LEGAL UPDATE

Legal Services Division



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## UNITED STATES SUPREME COURT DECISION — RIGHT TO ASSOCIATE — DONOR PRIVACY

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### **First Choice Women's Resource Centers, Inc. v. Davenport**

**Decided April 29, 2026**

**No. 24–781**

[www.supremecourt.gov/opinions/25pdf/24-781\\_pok0.pdf](https://www.supremecourt.gov/opinions/25pdf/24-781_pok0.pdf)

**Factual and Procedural Background.** First Choice Women's Resource Centers, Inc. (First Choice) is a religious nonprofit organization that provides pregnancy counseling and resources; First Choice does not provide abortions or refer mothers to other facilities for abortions. The Attorney General of New Jersey filed a subpoena with a state court requiring First Choice to provide the names, phone numbers, addresses, and places of employment of every donor that had donated through a channel other than one particular webpage. The subpoena specified that failure to comply could result in First Choice being found in contempt of court. First Choice keeps all donor information private, and several donors stated that they would have been "less likely" to donate if they knew that their identities would be disclosed to the government.

First Choice sued in federal district court, seeking a preliminary injunction and claiming that the subpoena violated the organization's First Amendment rights under 42 U.S.C. §1983 by discouraging people from associating with First Choice. Because the state court had not yet enforced the subpoena, the federal district court dismissed the case, holding that First Choice had not suffered a harm and lacked standing. The decision was affirmed by the United States Court of Appeals for the Third Circuit. First Choice appealed and the Supreme Court of the United States (Supreme Court) granted certiorari.

**Issue.** Whether an unenforced subpoena requiring disclosure of anonymous donors' identities is a harm under the Article III standing provisions of the Constitution of the United States.

**Holding.** In a unanimous decision, of the Supreme Court reversed the Third Circuit and remanded for further proceedings, holding that the threat of the subpoena's potential enforcement qualified as a harm by chilling the associational rights of First Choice.

**Analysis.** Article III of the United States Constitution only permits a federal court to exercise the judicial power if a matter qualifies as a case or controversy. This means that a plaintiff must have suffered an injury that is "concrete, particularized, and actual or imminent." *Diamond Alternative Energy, LLC v. EPA*, 606 U. S. 100, 111 (2025). An injury in fact can arise from a burden on a person's constitutional rights. See *TransUnion LLC v. Ramirez*, 594 U. S. 413, 425 (2021).

The First Amendment is understood to include the implied right to freely associate with others. In *NAACP v. Alabama ex rel. Patterson*, 357 U. S. 449, 462 (1958) the Court found that there was a "vital relationship"

between ‘privacy in one’s associations’ and the ‘freedom to associate’” that prohibited the state Attorney General from forcing the NAACP to disclose the names of its members. A state’s demand for donor information is understood to have a “deterrent effect on the exercise of First Amendment rights.” *Buckley v. Valeo*, 424 U. S. 1, 65 (1976) (per curiam).

The Attorney General argued that because the subpoena filed was not self-executing and did not require First Choice to provide donor data unless a court agreed to enforce the subpoena, First Choice had not suffered a harm to its First Amendment rights. However, the Court held that the subpoena functioned like “a sword of Damocles”: the actual injury came from the threat of harm. Knowing that the government could begin monitoring the association at any time discouraged individuals from donating to First Choice. This was demonstrated by affidavits of donors affirming that they would be less willing to make donations if the subpoena’s requirements were enforced and was supported by the “common sense” assumptions a court can make about third-party behavior in these cases. *Diamond Alternative Energy*, 606 U. S. at 116.

While the subpoena did not apply to information about individuals who donated through one specific website, the Court stated that “the question before us isn’t how badly the Attorney General has burdened First Choice’s associational rights; the question is whether the Attorney General has burdened those rights at all” and held that the subpoena’s limitation on how donors could privately interact with First Choice still remained an infringement on the right to freely associate. Similarly, the Attorney General’s request to the state court for an order to keep the collected information confidential failed to cure the harm caused by the subpoena, as the disclosure of the information to the government is itself an injury, regardless of disclosure to the public, as government collection of the donor information would discourage association with First Choice.

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