

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

## SUPREME COURT OF THE UNITED STATES

### Syllabus

#### CHURCH OF SCIENTOLOGY OF CALIFORNIA v. UNITED STATES ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 91-946. Argued October 6, 1992—Decided November 16, 1992

Pursuant to its jurisdiction under 26 U.S.C. §§7402(b) and 7604(a), the District Court ordered a state-court Clerk to comply with a summons issued by the Internal Revenue Service (IRS) for the production of, *inter alia*, two tapes in the Clerk's custody recording conversations between officials of petitioner Church of Scientology (Church) and their attorneys. Although the Church filed a timely notice of appeal, its request for a stay of the summons enforcement order was unsuccessful, and copies of the tapes were delivered to the IRS while the appeal was pending. The Court of Appeals dismissed the appeal as moot, ruling that no controversy existed because the tapes had already been turned over to the IRS.

*Held:* Compliance with the summons enforcement order did not moot the Church's appeal. Delivery of the tapes to the IRS did not mandate dismissal by making it impossible for the Court of Appeals to grant the Church "any effectual relief." See *Mills v. Green*, 159 U.S. 651, 653. Although it is now too late to prevent, or to provide a fully satisfactory remedy for, the invasion of privacy that occurred when the IRS obtained the information on the tapes, the Court of Appeals does have power to effectuate a partial remedy by ordering the Government to return or destroy any copies of the tapes that it may possess. Even if the Government is right that under §§7402(b) and 7604(a) the jurisdiction of the *district court* is limited to those matters directly related to whether or not the summons should be enforced, the question presented here is whether there was jurisdiction in the *appellate court* to review the allegedly unlawful summons enforcement order. There is nothing in the Internal Revenue Code to suggest that Congress sought to

preclude such review, and, indeed, this Court has expressly held that IRS summons enforcement orders *are* subject to appellate review. See *Reisman v. Caplin*, 375 U.S. 440, 449. Although several Courts of Appeals have accepted the Government's argument in IRS enforcement proceedings, the force of that line of authority is matched by a similar array of decisions reaching a contrary conclusion in proceedings enforcing Federal Trade Commission discovery requests. There is no significant difference between the governing statutes that can explain the divergent interpretations, nor any reason to conclude that production of records relevant to a tax investigation should have mootness consequences that production of other business records does not have. Pp.3-9.

CHURCH OF SCIENTOLOGY OF CAL. v. UNITED STATES

Syllabus

Vacated and remanded.

STEVENS, J., delivered the opinion for a unanimous Court.