

THOMAS, J., concurring in judgment

SUPREME COURT OF THE UNITED STATES

No. 01–394

WARREN CHRISTOPHER, FORMER SECRETARY
OF STATE, ET AL., PETITIONERS *v.*
JENNIFER K. HARBURY

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

[June 20, 2002]

JUSTICE THOMAS, concurring in the judgment.

In *Lewis v. Casey*, 518 U. S. 343 (1996), after a review of the constitutional text, this Court’s precedent, and tradition, I could find no basis “for the conclusion that the constitutional right of access imposes affirmative obligations on the States to finance and support prisoner litigation.” *Id.*, at 384–385 (concurring opinion). Likewise, I find no basis in the Constitution for a “right of access to courts” that effectively imposes an affirmative duty on Government officials either to disclose matters concerning national security or to provide information in response to informal requests. Notwithstanding the Court of Appeals’ attempt to characterize the right of access differently, see *Harbury v. Deutch*, 233 F.3d 596, 611 (CA DC 2000) (characterizing the right as “when public officials affirmatively mislead citizens in order to prevent them from filing suit”), I would decide this case solely on the ground that no such right is implicated here. For that reason, I concur in the judgment.