

The Burger Court Opinion Writing Database

City of Virginia Beach v. Howell

411 U.S. 922 (1973)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
Forrest Maltzman, George Washington University



WJ
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

March 29, 1973

*WJ
file memo*

RE: No. 71-373 City of Virginia Beach v.
Howell

Dear Bill:

I agree with your proposed form of
order in the above.

Sincerely,

Bill

Mr. Justice Rehnquist

cc: The Conference



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 22, 1973

Re: No. 71-373 - City of Virginia
Beach v. Howell

Dear Bill,

I am quite willing to follow your
suggestions with respect to the disposition
of the petition for rehearing in this case.

Sincerely yours,

P.S.

Mr. Justice Rehnquist

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

March 29, 1973

71-373 - City of Virginia Beach
v. Howell

Dear Bill,

I agree with your proposed order
disposing of the petition for rehearing in
this case.

Sincerely yours,

P.B.

Mr. Justice Rehnquist

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zation of the Hoover Institution Archives.

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in

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE BYRON R. WHITE

W.R.
le

March 30, 1973

Re: No. 71-373 - City of Virginia Beach v.
Howell

Dear Bill:

Your suggested order is all right with
me.

Sincerely,

Byron

Mr. Justice Rehnquist

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

March 29, 1973

Re: No. 71-373 - City of Virginia Beach v.
Howell

Dear Bill:

I agree with your proposed form of order in
the above.

Sincerely,
H. A. B.

Mr. Justich Rehnquist

cc: The Conference

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zation of the Hoover Institution Archives.

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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 22, 1973

MEMORANDUM TO THE CONFERENCE

Re: Petition for Rehearing in City of Virginia Beach v. Howell, No. 71-373

In Mahan v. Howell, etc., we unanimously affirmed the portion of the District Court's order that dealt with the Virginia Senate. The City of Virginia Beach has filed a petition for rehearing which correctly points out that one of the statements in the Court's opinion is too broad. The second sentence in Part II reads:

"Under the plan, the City of Virginia Beach was added to the City of Norfolk and the entire area was divided into three single-member districts which the court below found conformed almost ideally, numerically, to the "one person, one vote" principle.

It should have read:

"Under the plan, a portion of the City of Virginia Beach was added. . . ."

From this broad statement, petitioner argues that the actual effect of the District Court's order "results in a much larger dilution of the Virginia Beach senate vote than would be the case if the facts were as stated in this Court's opinion." But the whole thrust of the senate apportionment, according to the Commonwealth's argument, was not to give representation to a political subdivision, but to give equal representation to the populace. The point of our opinion was that, given the time exigencies facing the District Court, it did not abuse its discretion in taking into account the fact that Navy personnel, listed in one place on the census tracts because of job affiliation,

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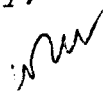
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actually resided in another, and in utilizing a multi-member district to correct apparent disparities.

Even though, in my view, the case should not be reheard, petitioner is entitled to have the erroneous statement corrected. I would therefore treat its petition for rehearing as a motion to modify the opinion, and amend the opinion by adding the words "a portion of" after the words "Under the plan," in the second sentence of the first paragraph in Part II. I would also change the last sentence in the same paragraph substituting "the City of Norfolk and a portion of Virginia Beach" for "cities of Norfolk and Virginia Beach."

Sincerely,



Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

March 29, 1973

MEMORANDUM TO THE CONFERENCE

Re: City of Virginia Beach v. Howell, No. 71-373

Treating the petition for rehearing as a motion to modify the Court's opinion, I propose the following form of order:

The motion of the petitioner, City of Virginia Beach, to modify this Court's opinion is hereby granted. The first paragraph in Part II of the opinion is amended by adding "a portion of" after the phrase "Under the plan," in the second sentence thereof, and by striking the phrase "encompassing the cities of Norfolk and Virginia Beach" in the last sentence of the paragraph, substituting therefor the following phrase: "encompassing the City of Norfolk and a portion of Virginia Beach".

Sincerely,

W. H. Rehnquist

ON WAR, REVOLUTION AND PEACE
Sanford, California 94303-6010



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