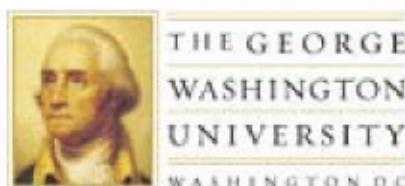


# The Burger Court Opinion Writing Database

*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



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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

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,

Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

*P. S.*  
no file yet

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

Copies to the Conference

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. S.

Mr. Justice Rehnquist

Copies to the Conference



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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

March 30, 1973

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

Dear Bill:

Your suggested order is all right with  
me.

Sincerely,



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

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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,



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,

*WW*

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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*

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