The Burger Court Opinion Writing Database

Stone v. Powell

428 U.S. 465 (1976)

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
THE CHIEF JUSTICE

June 11, 1976

PERSONAL

Re: 74-1055 - Stone v. Powell

Dear Lewis:

I write you without copies to the Conference at this time because if you are not prepared to make the suggested change, there is no point in adding to the "paper flood."

Page 24 for me puts more "glue and gloss" on the exclusion rule. It is unnecessary dictum. At most, no one has a right to ask any more than something like: "This case does not present any question as to the validity of the exclusionary rule as applied at trial . . . ." in place of the first two lines, second paragraph, page 24.

Regards,

WEB

Mr. Justice Powell

We do not question the E/R ~~in this case~~ as applied at the trial, etc.

Add note referring to Byron.

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

CHAMBERS OF
THE CHIEF JUSTICE

June 16, 1976

PERSONAL

Re: (74-1055 - Stone v. Powell
(74-1222 - Wolff v. Rice

Dear Lewis:

In the rush of these days you may not get to my problems with the "endorsement" of the exclusionary rule at p. 24. If you find it possible to adopt something along the lines of my suggestion I can join the opinion.

Meanwhile I am circulating a concurring opinion calling for the end or modification of the exclusionary rule -- one of the great hoaxes on the public in its present form.

Regards,

WEB

Mr. Justice Powell

withstood analysis.

Justice Brennan
Justice Stewart
Justice White
Justice Marshall
Justice Blackmun
Justice Rehnquist
Justice Stevens

1st DRAFT

Circulated: JUN 16 1976

Recirculated: _____

to me

analysis

judgment.

my dissent in Bivens

441 (1971), it seems

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search of validating

purported tendency to

opinion, at 13 (1976);

Other rhetorical

ntegrity," have not

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice [illegible]
Mr. Justice [illegible]
Mr. [illegible]
Mr. [illegible]
Mr. [illegible]
Mr. [illegible]

From:

Circulated: JUN 16 1976

Recirculated: _____

Re: (74-1055 - Stone v. Powell
(74-1222 - Wolff v. Rice

MR. CHIEF JUSTICE BURGER, concurring in the judgment.

I concur in the judgment. For reasons stated in my dissent in Bivens v. Six Unknown Named Federal Agents, 403 U.S. 388, 441 (1971), it seems clear to me that the exclusionary rule has been operative long enough to demonstrate its futility and that the time has come to modify its reach if no more. Over the years, the strains imposed by reality have led the Court to vacillate as to the rationale for deliberate exclusion of truth from the fact-finding process. The rhetoric has varied with the rationale, to the point where it has now become a doctrinaire result in search of validating reasons.

The exclusionary rule now rests solely upon its purported tendency to deter police misconduct. United States v. Janis, Slip opinion, at 13 (1976); United States v. Calandra, 414 U.S. 338, 347 (1974). Other rhetorical generalizations, including the "imperative of judicial integrity," have not withstood analysis.

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

CHAMBERS OF
THE CHIEF JUSTICE

June 21, 1976

PERSONAL

Re: (74-1055 - Stone v. Powell
(74-1222 - Wolff v. Rice

Dear Lewis:

Confirming our telephone conversation:

1. I find the previous (print) version on p. 24 more tolerable than your proposed typed version.

2. With some slight changes I will let my concurring opinion stand.

Regards,

WEB

Mr. Justice Powell

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

CHAMBERS OF
THE CHIEF JUSTICE

June 21, 1976

Re: (74-1055 - Stone v. Powell
(74-1222 - Wolff v. Rice

Dear Lewis:

I have concluded to join your opinion in the above case.

Regards,

WEB

Mr. Justice Powell

Copies to the Conference

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

The Chief Justice

JUN 25 1976

SUBSTANTIAL CHANGES THROUGHOUT

Nos. 74-1055 and 74-1222

W. T. Stone, Warden, Petitioner, 74-1055 v. Lloyd Charles Powell.	)	On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.
Charles L. Wolff, Jr. Warden, Petitioner, 74-1222 v. David L. Rice.	)	On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June ____, 1976]

MR. CHIEF JUSTICE BURGER, concurring.

I concur in the Court's opinion. By way of dictum, and somewhat hesitantly, the Court notes that the holding in this case leaves undisturbed the exclusionary rule as applied to criminal trials. For reasons stated in my dissent in Bivens v. Six Unknown Named Federal Agents, 403 U.S. 388, 441 (1971), it seems clear to me that the

To: Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice
Mr. Justice
Mr. Justice
Mr.
Mr.
Mr.

From:

Circulated:

Recirculated: JUN 2 1976

SUBSTANTIALLY REWRITTEN

1st PRINTED
2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 74–1055 AND 74–1222

W. T. Stone, Warden, Petitioner, 74–1055 *v.* Lloyd Charles Powell. | On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner, 74–1222 *v.* David L. Rice. | On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June —, 1976]

MR. CHIEF JUSTICE BURGER, concurring.

I concur in the Court's opinion. By way of dictum, and somewhat hesitantly, the Court notes that the holding in this case leaves undisturbed the exclusionary rule as applied to criminal trials. For reasons stated in my dissent in *Bivens* v. *Six Unknown Named Federal Agents*, 403 U. S. 388, 441 (1971), it seems clear to me that the exclusionary rule has been operative long enough to demonstrate its ~~futility~~ flaws. The time has come to modify its reach, even if it is retained for a small and limited category of cases.

Over the years, the strains imposed by reality, in terms of the costs to society and the bizarre miscarriages of justice that have been experienced because of the exclusion of reliable evidence when the "constable blunders," have led the Court to vacillate as to the rationale for deliberate exclusion of truth from the factfinding process. The rhetoric has varied with the rationale to the point where the rule has become a doctrinaire result in search of validating reasons.

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

May 15, 1976

RE: Nos. 74-1055 and 74-1222 Stone v. Powell &
Wolff v. Rice

Dear Lewis:

In due course I shall circulate a dissent in the above.

Sincerely,

Bill

Mr. Justice Powell

cc: The Conference

To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

SUPREME COURT OF THE UNITED STATES

Nos. 74-1055 & 74-1222

From: Mr. Justice Brennan

Circulated: 6/21/76

Recirculated: _____

W.T. Stone, Warden, Petitioner)
)
v.)
)
Lloyd Charles Powell)
No. 74-1055)

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner)
)
v.)
)
David L. Rice)
No. 74-1222)

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June ____, 1976]

MR. JUSTICE BRENNAN, dissenting.

changes throughout
pp 13, 14, 15, 16, 28, 30-34

To: The Chief Justice
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 74–1055 AND 74–1222

7/3

W. T. Stone, Warden, Petitioner, 74–1055 *v.* Lloyd Charles Powell. — On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner, 74–1222 *v.* David L. Rice. — On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[July 6, 1976]

MR. JUSTICE BRENNAN, with whom MR. JUSTICE MARSHALL concurs, dissenting.

The Court today holds "that where the State has provided an opportunity for full and fair litigation of a Fourth Amendment claim, a state prisoner may not be granted federal habeas corpus relief on the ground that evidence obtained in an unconstitutional search or seizure was introduced at his trial." *Ante*, at 27. To be sure, my Brethren are hostile to the continued vitality of the exclusionary rule as part and parcel of the Fourth Amendment's prohibition of unreasonable searches and seizures, as today's decision in *United States* v. *Janis*, *ante*, confirms. But these cases, despite the veil of Fourth Amendment terminology employed by the Court, plainly do not involve any question of the right of a defendant to have evidence excluded from use against him in his criminal trial when that evidence was seized in contravention of rights ostensibly secured[1] by the Fourth

[1] I say "ostensibly" secured both because it is clear that the Court has yet to make its final frontal assault on the exclusionary rule, and because the Court has recently moved in the direction of holding

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 17, 1976

Re: Nos. 74-1055 and 74-1222, Stone v. Powell

Dear Lewis,

I am glad to join your opinion for the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Powell

Copies to the Conference

P.S. to Mr. Justice Powell only

It is quite possible that I may have some further suggestions after we see the dissenting opinion.

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

CHAMBERS OF
JUSTICE POTTER STEWART

May 17, 1976

Re: Nos. 74-1055 and 74-1222, Stone v. Powell

Dear Lewis,

I am glad to join your opinion for the Court in this case.

Sincerely yours,

P.S.

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 4, 1976

Re: Nos. 74-1055 & 74-1222 - Stone v. Powell

Dear Lewis:

I shall write separately in this case.

Sincerely,

Byron

Mr. Justice Powell

Copies to Conference

Nos. 74-1055 and 74-1222 — Stone v. Powell

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice White

Circulated: 6-14-76

Recirculated: _____

MR. JUSTICE WHITE, dissenting.

For many of the reasons stated by MR. JUSTICE BRENNAN, I cannot agree that the writ of habeas corpus should be any less available to those convicted of state crimes where they allege Fourth Amendment violations than where other constitutional issues are presented to the federal court. Under the amendments to the habeas corpus statute, which were adopted after Fay v. Noia, 372 U.S. 391 (1963), and represented an effort by Congress to lend a modicum of finality to state criminal judgments, I cannot distinguish between Fourth Amendment and other constitutional issues.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice White

Circulated: _____

Recirculated: 6-28-76

Printed
1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 74–1055 AND 74–1222

W. T. Stone, Warden, Petitioner, 74–1055 *v.* Lloyd Charles Powell. } On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner, 74–1222 *v.* David L. Rice. } On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June —, 1976]

MR. JUSTICE WHITE, dissenting.

For many of the reasons stated by MR. JUSTICE BRENNAN, I cannot agree that the writ of habeas corpus should be any less available to those convicted of state crimes where they allege Fourth Amendment violations than where other constitutional issues are presented to the federal court. Under the amendments to the habeas corpus statute, which were adopted after *Fay* v. *Noia*, 372 U. S. 391 (1963), and represented an effort by Congress to lend a modicum of finality to state criminal judgments, I cannot distinguish between Fourth Amendment and other constitutional issues.

Suppose, for example, that two confederates in crime, Smith and Jones, are tried separately for a state crime and convicted on the very same evidence, including evidence seized incident to their arrest allegedly made without probable cause. Their constitutional claims are fully aired, rejected and preserved on appeal. Their convictions are affirmed by the State's highest court. Smith, the first to be tried, does not petition for certiorari, or does so but his petition is denied. Jones, whose convic-

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 22, 1976

Re: No. 74-1055 -- Stone v. Powell
No. 74-1222 -- Wolff v. Rice

Dear Bill:

Please join me in your dissent.

Sincerely,

T.M.

Mr. Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 24, 1976

Re: No. 74-1055 - Stone v. Powell
No. 74-1222 - Wolff v. Rice

Dear Lewis:

Please join me.

Sincerely,

Harry

Mr. Justice Powell

cc: The Conference

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated: MAY 13 1976

Recirculated: _____

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 74–1055 AND 74–1222

W. T. Stone, Warden, Petitioner, 74–1055 *v.* Lloyd Charles Powell. — On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner, 74–1222 *v.* David L. Rice. — On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[May —, 1976]

MR. JUSTICE POWELL delivered the opinion of the Court.

Respondents in these cases were convicted of criminal offenses in state courts, and their convictions were affirmed on appeal. The prosecution in each case relied upon evidence obtained by searches and seizures alleged by respondents to have been unlawful. Each respondent subsequently sought relief in a federal district court by filing a petition for a writ of federal habeas corpus under 28 U. S. C. § 2254. The question presented is whether a federal court should consider, in ruling on a petition for habeas corpus relief filed by a state prisoner, a claim that evidence obtained by an unconstitutional search or seizure was introduced at his trial, when he has previously been afforded an opportunity for full and fair litigation of his claim in the state courts. The issue is of considerable importance to the administration of criminal justice.

June 18, 1976

No. 74-1055 and 74-1222 Stone and Rice

Dear Chief:

Here is a copy of my opinion (second draft) in the above cases, with riders attached which incorporate changes which I hope you will find satisfactory.

As you will recall, we took these cases because they clearly presented the issue whether the exclusionary rule should apply on a collateral attack based on the Fourth Amendment. This was the issue I addressed in my concurring opinion in Bustamonte, which you joined. At that time, Potter also was willing to join five other Justices, but was unwilling then to make the fifth vote. Prior to granting the above cases, Bill Rehnquist and I conferred with Potter to see whether he considered them appropriate vehicles to reconsider the issue. I think I kept you advised of this.

At our Conference, Byron expressed a willingness to adopt a "good faith" modification of the exclusionary rule even as applied to trial and appeal, a position which both Bill Rehnquist and I have expressed sympathy for in the past. But Potter and John flatly stated their unwillingness to join an opinion going so far, or expressing any dissatisfaction with the rule at trial and on direct appeal.

My distinct understanding at Conference, therefore, was that there were six firm votes to dispose of these cases solely on the applicability of the exclusionary rule to Fourth Amendment issues raised on habeas corpus. The opinion was written that way. Footnote 16 (p. 14) states that "we find it unnecessary to consider the other issues concerning the exclusionary rule raised by the parties".

It was against this background that I found your "concurring in result only" opinion so surprising. In any event, I have gone back to Potter and cleared with him the riders now attached to pages 24 and 25. They say two things: (i) that we merely assume the continued vitality of the assumptions that have been relied upon to support the rule; and (ii) in the new footnote on page 25, we make crystal clear that we need not and do not reach the question of the application of the rule at trial and on direct appeal.

The footnote, and the change in the text, allow you to join the opinion and also file your concurrence without substantial change of any kind. You will be perfectly free in the future, as will all of us, to advance the view you have advocated for some time.

I have not gone back to John Stevens, as I will be in a stronger position with him if I have prior approval by both you and Potter.

Sincerely,

The Chief Justice

lfp/ss

Changes: pp. 6, 13, 14, 19, 26, 27

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Rehnquist
Mr. Justice Stevens

From: Mr. Justice Powell

Circulated:

Recirculated: JUN 2[illegible] 1976

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 74–1055 AND 74–1222

W. T. Stone, Warden, Petitioner, 74–1055 *v.* Lloyd Charles Powell. } On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner, 74–1222 *v.* David L. Rice. } On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June —, 1976]

MR. JUSTICE POWELL delivered the opinion of the Court.

Respondents in these cases were convicted of criminal offenses in state courts, and their convictions were affirmed on appeal. The prosecution in each case relied upon evidence obtained by searches and seizures alleged by respondents to have been unlawful. Each respondent subsequently sought relief in a federal district court by filing a petition for a writ of federal habeas corpus under 28 U. S. C. § 2254. The question presented is whether a federal court should consider, in ruling on a petition for habeas corpus relief filed by a state prisoner, a claim that evidence obtained by an unconstitutional search or seizure was introduced at his trial, when he has previously been afforded an opportunity for full and fair litigation of his claim in the state courts. The issue is of considerable importance to the administration of criminal justice.

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

June 28, 1976

MEMORANDUM TO THE CONFERENCE:

Holds for Stone v. Powell, No. 74-1055 and Wolff v. Rice, No. 74-1222

Three cases are being held for Powell and Rice.

1. United States v. Karathanos, No. 75-1402. The issue in this case is whether the exclusionary rule should be applied in circumstances where the federal officers executed a search warrant not in compliance with Aguilar-Spinelli. Federal agents obtained a warrant to search a restaurant basement for illegal aliens. The warrant was based on an affidavit of a federal investigator indicating: (i) 11 aliens had been arrested at the restaurant in the past five years; and (ii) a named informant, himself an illegal alien who had been employed by and resided in the restaurant basement for the previous year and a half, had informed the investigator that there were a number of illegal aliens residing in the restaurant basement. The search revealed seven aliens. Respondents were indicted for harboring and concealing them.

The DC granted respondent's motion to suppress the evidence derived from the search on the ground the affidavit failed to specify adequately the source of the informant's conclusion that the aliens were illegally in the country. CA2 affirmed (2-1), rejecting, inter alia the government's contention that the exclusionary rule should not be invoked where federal agents in good-faith attempt to comply with the Fourth Amendment.

The S.G. raises the good faith issue here, expressly declining to seek review of CA2's conclusions regarding the sufficiency of the affidavit as establishing probable cause for the search. Although there was no finding below with respect to whether government agents acted in good faith, that issue is otherwise squarely presented. I could join three to Grant.

2. Lavallee v. Mungo, No. 75-696. In this case CA 2 ordered the granting of a writ of habeas corpus upon the petition of a state prisoner who claimed that his arrest was without probable cause. Since the prisoner was afforded an opportunity for full and fair litigation of this claim at trial and direct review, I will vote to grant, vacate and remand in light of Rice and Powell.

3. Meeks v. Havener, No. 75-5416. Petitioner, an escapee, was convicted in state court of bank robbery after a warrantless search of his apartment turned up evidence that was not introduced at trial but which led to his indictment.

The DC denied habeas corpus relief and CA 6 affirmed.

Under Rice and Powell, since petitioner was afforded an opportunity for full and fair consideration of his Fourth Amendment claim in the state courts, I would vote to deny on this issue.

The case, however, is also currently being held for Doyle and Wood. Petitioner contends there was constitutional error in a line of questioning during the state's case. The officer who interrogated petitioner testified that he had given Miranda warnings, and that petitioner had refused to sign a waiver and refused initially to speak about the case. At this point the court sustained defense counsel's objection. The state proffered evidence that petitioner later (how much later is unknown) had made voluntary incriminating statements. The DJ held that the voluntary statements would have been admissible, and that as a "predicate" to their admission the prosecutor could elicit a description of the Miranda warnings and petitioner's immediate reaction. As indicated in the hold memorandum for Doyle and Wood, Nos. 75-5014 and 75-5015, the situation presented by the officer's testimony is a bit unusual and is not governed by Doyle. If the officer had been permitted to continue and petitioner's later statements had proved voluntary and been admitted, there would seem to be no constitutional error in the officer's "lead-in" concerning

petitioner's initial silence. As things stand, however, we have nothing except the testimony about petitioner's silence, and that testimony was given in the state's case-in-chief. I will vote to grant, vacate and remand in light of Doyle, although I recognize this disposition may be a little confusing.

L.F.P., Jr.

No changes.

From:

Circulated:

Recirculated: 2 1976

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 74–1055 AND 74–1222

W. T. Stone, Warden, Petitioner, 74–1055 *v.* Lloyd Charles Powell. | On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

Charles L. Wolff, Jr., Warden, Petitioner, 74–1222 *v.* David L. Rice. | On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit.

[June —, 1976]

MR. JUSTICE POWELL delivered the opinion of the Court.

Respondents in these cases were convicted of criminal offenses in state courts, and their convictions were affirmed on appeal. The prosecution in each case relied upon evidence obtained by searches and seizures alleged by respondents to have been unlawful. Each respondent subsequently sought relief in a federal district court by filing a petition for a writ of federal habeas corpus under 28 U. S. C. § 2254. The question presented is whether a federal court should consider, in ruling on a petition for habeas corpus relief filed by a state prisoner, a claim that evidence obtained by an unconstitutional search or seizure was introduced at his trial, when he has previously been afforded an opportunity for full and fair litigation of his claim in the state courts. The issue is of considerable importance to the administration of criminal justice.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 17, 1976

Re: Nos. 74-1055 and 74-1222 - Stone v. Powell, et al.

Dear Lewis:

I think that I have some language which will satisfy you and me, though it might not satisfy Potter, on page 24 in your opinion in this case.

The last two lines of text on that page presently read:

> "We adhere to the view that these considerations support the implementation of the exclusionary rule at trial . . ."

I think the desired neutrality would be fully achieved if something like this could be substituted for those two lines:

> "We adhere to the view that these considerations support the implementation of the rule under which illegally seized evidence may be excluded at trial . . ."

If the language appeals to you, use it as you will. If it doesn't, forget it.

Sincerely,

Bill

Mr. Justice Powell

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

May 17, 1976

Re: No. 74-1055, Stone v. Powell; No. 74-1222, Wolff v. Rice

Dear Lewis,

Please join me in your opinion for the Court.

Sincerely,

WHR

Mr. Justice Powell

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

May 27, 1976

Re: 74-1055 - Stone v. Powell
74-1222 - Wolff v. Rice

Dear Lewis:

Confirming my oral statement to you, I do intend to join your opinion for the Court but am considering writing a short additional concurring opinion because of the exceptional importance of the case.

Sincerely,

John

Mr. Justice Powell

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 23, 1976

Re: 74-1055 - Stone v. Powell
74-1222 - Wolff v. Rice

Dear Lewis:

Please join me.

Sincerely,

JPS

Mr. Justice Powell

Copies to the Conference