

The Burger Court Opinion Writing Database

Velde v. National Black Police Association Inc.

458 U.S. 591 (1982)

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

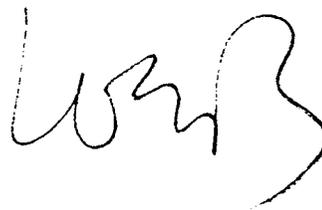
January 26, 1982

Re: No. 80-1074 - Velde v. National Black Police Assn., I-1

Dear Bill:

I am having trouble with the "case or controversy" aspect of this case and will ponder on this a while. As time passes I take an increasingly dim view of these mushrooming "entitlements" and implied causes of action and I need time to sort out the problem.

Regards,



Justice Rehnquist

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
THE CHIEF JUSTICE

April 12, 1982

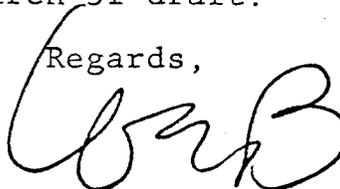
Re: No. 80-1074 - Velde v. National Black Police
Association Inc.

Dear Bill:

I have considered the possibility of setting this case for reargument but I now conclude that would in the long run serve no useful purpose.

I therefore join your March 31 draft.

Regards,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

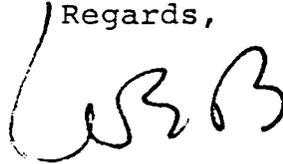
June 24, 1982

Re: No. 80-1074, Velde v. Nat'l Black Police Assn

Dear Bill,

I agree that a GVR in light of Harlow v. Fitzgerald
is appropriate.

Regards,

A handwritten signature in black ink, appearing to be 'W. B. B.', written in a cursive style.

Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

June 28, 1982

Re: No. 80-1074 - Velde v. National Black Police
Association, Inc.

Dear Bill:

This will confirm my join.

Regards,

A handwritten signature in black ink, appearing to be 'WR', written in a cursive style.

Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 14, 1981

RE: No. 80-1074 Velde v. National Black Police Assn.

Dear Thurgood and Harry:

We three are in dissent in the above. Would you,
Harry, be willing to undertake the dissent?

Sincerely,



Justice Marshall

Justice Blackmun

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

April 6, 1982

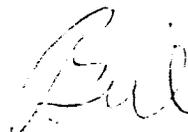
CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

Re: Velde v. National Black Police Association (No. 80-1074)

Dear Harry:

I think your memo makes some very telling points. Surely the Court should discuss them as soon as possible, and before any further writing.

Sincerely,



Justice Blackmun

Copies to the Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 21, 1982

RE: No. 80-1074 Velde v. National Black Police Assn.

Dear Harry:

Please join me.

Sincerely,



Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

June 25, 1982

RE: No. 80-1074 Velde v. National Black Police Assn.

Dear Bill:

I agree with the Per Curiam you have prepared in the
above.

Sincerely,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 21, 1982

Re: 80-1074 - Velde v. National Black
Police Ass'n, Inc.

Dear Bill,

I shall await the dissent in this case.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

March 31, 1982

Re: 80-1074 - Velde v. National Black
Police Ass'n.

Dear Bill,

Please join me.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

April 15, 1982

Re: 80-1074 - Velde v. National Black
Police Association

Dear Bill,

I am still content with your circulating
draft in this case.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 25, 1982

Re: 80-1074 - Velde v. National
Black Police Ass'n

Dear Bill,

I agree.

Sincerely yours,



Justice Rehnquist

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 19, 1982

Re: No. 80-1074 - Velde v. National Black
Police Association, Inc.

Dear Bill:

I await the dissent.

Sincerely,

T.M.
T.M.

Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 21, 1982

Re: No. 80-1074 - Velde v. National Black Police
Association, Inc.

Dear Harry:

Please join me in your opinion.

Sincerely,



T.M.

Justice Blackmun

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

June 28, 1982

Re: No. 80-1074 - Velde v. Nat'l Black Police Assn.

Dear Bill:

I agree with your Per Curiam.

Sincerely,

J.M.

T.M.

Justice Rehnquist

cc: The Conference

December 14, 1981

Re: No. 80-1074 - Velde v. National Black Police Assn.

Dear Bill:

I shall be glad to undertake the dissent in this case.

Sincerely,

HAB

Justice Brennan

cc: Justice Marshall

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

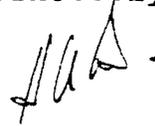
January 19, 198

Re: No. 80-1074 - Velde v. National Black Police Ass'n

Dear Bill:

In due course, I shall circulate a dissent in this case.

Sincerely,



Justice Rehnquist

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

January 27, 1982

Personal

Re: No. 80-1074 - Velde v. National Black Police Ass'n

Dear Sandra:

I hope to have the dissent in this case out shortly (soon after I return from out of town the end of the week). I cannot tell from your letter of January 22 whether you propose to write. I am hardly in a position to suggest that, before you circulate, you wait to see what I come up with, but, with diffidence, I offer that suggestion for your consideration.

Sincerely,

HAB

Justice O'Connor

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

April 5, 1982

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

Re: No. 80-1074 - Velde v. National Black Police Association

Dear Bill:

I read with interest your first draft circulated January 18 and your substantial revision now culminating in the fourth draft circulated March 31. You have written a strong opinion and obviously have invested much time and effort toward a resolution of this seemingly difficult case.

On January 19, I circulated a note that I was preparing a dissent to your original draft. We, too, spent a good bit of time and effort in preparing that dissent. It was ready for circulation sometime before your completely revised second draft came around. I withheld circulation of the dissent because word had reached us that a complete revision was underway in the light of Sandra's and the Chief's respective letters of January 22 and 26.

I am willing to commit further time and effort to a revised dissent, but before I do so, I write this note to mention some matters that are disturbing to me.

Your present draft reverses the judgment of the Court of Appeals by concluding that there is no Bivens cause of action. The opinion necessarily concedes, pages 3-4, n. 6, that the Bivens issue was not addressed by either of the lower courts, was not raised in the petition for certiorari, was not briefed here by either party, and was not discussed in any significant way, and certainly not at any length, during oral argument. The opinion justifies reaching the issue, however, on the ground that it thereby avoids the important constitutional question whether petitioners can be held liable without proof of discriminatory intent.

But the opinion goes on to decide an issue that is nearly as important as the issue it avoids. As I presently see it, the opinion revises past precedents and discards part of Carlson v. Green, 446 U.S. 14. I seriously wonder whether the Court should decide such an important issue when it has not been addressed by the lower courts or the parties. Consequently, I would like to suggest two alternatives to deciding the case in its present posture.

First, I think that we might consider the possibility of vacating and remanding this case in the light of Harlow and Butterfield. Harlow and Butterfield will announce a new

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immunity standard for "high executive officials." Thus, at least for former Attorney General Levi, and perhaps for some or all of the other defendants, Harlow and Butterfield will change this case considerably. A remand would force the Court of Appeals to give the immunity claims a prompt and close look. The Court of Appeals would also have the opportunity, then, to pass upon any other contentions, such as a Bivens argument, that the SG might wish to present. There would thus be a substantial chance that the case would go away without further action by this Court. And for those members of the Court who have objections to the opinion of the Court of Appeals, the Court would erase the precedential effect of that opinion by vacating it.

Second, if the Court does not vacate and remand, should we not at least consider setting the case for reargument, with a specific request that the parties brief the Bivens question. We would still be confronted, of course, with the fact that the lower courts have not considered the Bivens issue. But at least the parties would then have an opportunity to address the issue that apparently is going to decide their case. If I remember my practice days correctly -- and I think I do -- I know I would be severely disappointed and annoyed to lose a case here on an issue neither side argued. And I doubt that we should decide the substantial Bivens issue without the benefit of at least briefing and argument.

I would be interested in your reaction to either of these suggestions. I repeat that, in asking this, I am conscious of the fact that you have invested much time in the case. It seems to me, however, that reargument is indicated here even more than it is indicated for Chadha, which, from the absence of any further discussion, seems to be steered in that direction.

I shall be interested also if any others have positive reactions to either of these suggestions. If not, I shall proceed to a new dissent. As has been said, that "may take some time."

Sincerely,

Justice Rehnquist

cc: The Conference

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

April 20, 1982

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

Re: No. 80-1074 - Velde v. Nat'l Black Police Ass'n, Inc.

Dear Bill:

You now have a Court, so I shall proceed with a second dissent.

Sincerely,



Justice Rehnquist

cc: The Conference

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Powell
Justice Rehnquist
Justice Stevens
Justice O'Connor

From: Justice Blackmun

Circulated: JUN 18 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1074

RICHARD W. VELDE, ET AL., PETITIONERS v. NATIONAL BLACK POLICE ASSOCIATION, INC., ET AL.

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

[June —, 1982]

JUSTICE BLACKMUN, concurring in part and dissenting in part.

I agree with the Court that respondents' "complaint is sufficient to withstand a motion to dismiss for lack of standing." *Ante*, at 8.¹ I disagree, however, with the Court's conclusion that respondents may not be afforded "a claim for damages premised directly upon the Constitution." *Ante*, at 3.

¹Like the Court, see *ante*, at 7-9, I conclude that respondents have standing to sue petitioners for allegedly perpetuating the discrimination respondents have suffered at the hands of LEAA funding recipients. This standing is sufficient to permit us to reach the merits. See, e. g., *Watt v. Energy Action Educational Foundation*, 454 U. S. —, — (1982) (slip op. 8). Thus, the first part of the Court's discussion of respondents' standing, see *ante*, at 5-7, is unnecessary to its disposition of the case. As a result, I see no need to address that aspect of the standing issue.

One point needs to be made, however, about the second part of the Court's standing discussion. The Court seems to set up two tests for standing—that the claimed injury be fairly traceable to the defendant and that the court be able to redress the asserted injury. *Ante*, at 7-8. In fact, the Court has simply stated the same test two different ways. See *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, 438 U. S. 59, 74 (1978) ("The more difficult step in the standing inquiry is establishing that these injuries 'fairly can be traced to the challenged action of the defendant,' *Simon v. Eastern Ky. Welfare Rights Org.*, [426 U. S. 26, 41 (1976)], or put otherwise, that the exercise of the Court's remedial powers would redress the claimed injuries.").

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 25, 1982

Re: No. 80-1074 - Velde v. National Black Police Ass'n

Dear Bill:

The per curiam you propose for this case has my approval. I believe, however, that the Clerk always inserts "United States" before "Court of Appeals" in dispositions of this kind. See, for example, the order list of June 21.

Sincerely,



Justice Rehnquist

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 18, 1982

80-1074 Velde v. National Black Police Association

Dear Bill:

Please add at the end of the next draft of your opinion that I took no part in the consideration or decision of this case.

Sincerely,

Lewis

Justice Rehnquist

lfp/ss

cc: The Conference

REPRODUCED FROM THE COLLECTIONS OF THE MANUSCRIPT DIVISION, LIBRARY OF CONGRESS

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

March 24, 1982

80-1074 Velde v. National Black Police Force

Dear Bill:

Please show at the end of the next draft of your opinion that I took no part in the consideration or decision of this case.

Sincerely,

L. F. P.

Justice Rehnquist

lfp/ss

cc: The Conference

To: The Chief Justice
Justice Brennan
Justice White
✓ Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: JAN 18 1982

Recirculated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1074

RICHARD W. VELDE, ET AL., PETITIONERS *v.* NATIONAL BLACK POLICE ASSOCIATION, INC., ET AL.

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

[January —, 1982]

JUSTICE REHNQUIST delivered the opinion of the Court.

This litigation was commenced in the United States District Court for the District of Columbia in 1975, and has wended its way here in the interim without ever having gone to trial on the "merits" of respondents' allegations of discrimination on the part of petitioners. Because we conclude, for the reasons hereafter stated, that respondents lack standing to maintain the claims against petitioners which they seek to litigate in this action, we conclude, with a natural reluctance after the amount of effort invested in the suit by the parties, that the action should have been dismissed by the District Court. The United States Court of Appeals for the District of Columbia Circuit having held otherwise, the judgment of that court is reversed and the cause remanded with appropriate instructions. Because each of the parties to the controversy has always had at least one "fall-back" position, it may well be that the "standing" issue was not as forcefully presented to the Court of Appeals as might have been the case, since that Court treated the question in a footnote. But since standing is an Art. III requirement for the exercise of jurisdiction by the federal courts, we cannot avoid the necessity of making a determination on this point previous to the examination of the "merits" of the other claims tendered by the litigants.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

January 27, 1982

MEMORANDUM TO THE CONFERENCE

Re: No. 80-1074 Velde v. National Black Police Assoc.,

Since it is apparent from the reaction of the Chief and Sandra that my presently circulating draft in this case will not command a majority of even the bob-tailed Court which has participated (Lewis and John being "out"), I have decided to try my hand at re-structuring the draft so as to shift the emphasis from "standing" to the absence of any private right of action or "Bivens" claim. I hope to have a copy of the revised draft in your hands before too long.

Sincerely,

WHR

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p 13

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: MAR 24 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1074

RICHARD W. VELDE, ET AL., PETITIONERS, *v.* NATIONAL BLACK POLICE ASSOCIATION, INC., ET AL.

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

[March —, 1982]

JUSTICE REHNQUIST delivered the opinion of the Court.

I

The Law Enforcement Assistance Administration (LEAA) was established by Congress in 1968 to provide financial and technical assistance to state and local law enforcement agencies. See Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197, as amended, 42 U. S. C. §§ 3701-3781 (1976).¹ Congress amended the enabling statute in 1973 by adding § 518(c)(1), which prohibits recipients of LEAA assistance from discriminating against any person "on the ground of race, color, religion, national origin, or sex." 87 Stat. 214, as amended, 42 U. S. C. § 3766(c)(1) (1976).

In 1975, respondents brought suit in United States District Court for the District of Columbia, claiming that the LEAA had violated the Due Process Clause of the Fifth Amendment, as well as its own enabling statute, by funding state and local police departments that unlawfully discriminate on the basis of race and gender. Respondents named as defendants the LEAA and the Department of Justice, as well as

¹ Congress substantially restructured the LEAA in 1979. See Justice System Improvement Act of 1979, 93 Stat. 1167, 42 U. S. C. §§ 3701-3797 (1976 ed., Supp. III). Those changes do not affect our resolution of this case.

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Stylistic changes - pp 17, 25

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall ✓
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: **Justice Rehnquist**

Circulated: _____

Recirculated: MAR 27 1982

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1074

RICHARD W. VELDE, ET AL., PETITIONERS, *v.* NATIONAL BLACK POLICE ASSOCIATION, INC., ET AL.

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

[March —, 1982]

JUSTICE REHNQUIST delivered the opinion of the Court.

I

The Law Enforcement Assistance Administration (LEAA) was established by Congress in 1968 to provide financial and technical assistance to state and local law enforcement agencies. See Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197, as amended, 42 U. S. C. §§ 3701-3781 (1976).¹ Congress amended the enabling statute in 1973 by adding § 518(c)(1), which prohibits recipients of LEAA assistance from discriminating against any person "on the ground of race, color, religion, national origin, or sex." 87 Stat. 214, as amended, 42 U. S. C. § 3766(c)(1) (1976).

In 1975, respondents brought suit in United States District Court for the District of Columbia, claiming that the LEAA had violated the Due Process Clause of the Fifth Amendment, as well as its own enabling statute, by funding state and local police departments that unlawfully discriminate on the basis of race and gender. Respondents named as defendants the LEAA and the Department of Justice, as well as

¹ Congress substantially restructured the LEAA in 1979. See Justice System Improvement Act of 1979, 93 Stat. 1167, 42 U. S. C. §§ 3701-3797 (1976 ed., Supp. III). Those changes do not affect our resolution of this case.

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To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: **Justice Rehnquist**

Circulated: _____

Recirculated: MAR 3 1982

BA 24 + 25

4th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 80-1074

RICHARD W. VELDE, ET AL., PETITIONERS, *v.* NA-
TIONAL BLACK POLICE ASSOCIATION, INC., ET AL.

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

[April —, 1982]

JUSTICE REHNQUIST delivered the opinion of the Court.

I

The Law Enforcement Assistance Administration (LEAA) was established by Congress in 1968 to provide financial and technical assistance to state and local law enforcement agencies. See Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 197, as amended, 42 U. S. C. §§ 3701-3781 (1976).¹ Congress amended the enabling statute in 1973 by adding § 518(c)(1), which prohibits recipients of LEAA assistance from discriminating against any person "on the ground of race, color, religion, national origin, or sex." 87 Stat. 214, as amended, 42 U. S. C. § 3766(c)(1) (1976).

In 1975, respondents brought suit in United States District Court for the District of Columbia, claiming that the LEAA had violated the Due Process Clause of the Fifth Amendment, as well as its own enabling statute, by funding state and local police departments that unlawfully discriminate on the basis of race and gender. Respondents named as defendants the LEAA and the Department of Justice, as well as

¹ Congress substantially restructured the LEAA in 1979. See Justice System Improvement Act of 1979, 93 Stat. 1167, 42 U. S. C. §§ 3701-3797 (1976 ed., Supp. III). Those changes do not affect our resolution of this case.

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

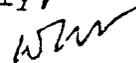
April 15, 1982

Re: No. 80-1074 Velde v. National Black Police
Association

Dear Harry:

I have read with care your letter of April 5th, suggesting possible dispositions of this case other than that proposed in my presently circulating opinion. Because I realize that you need definite information in order to decide whether to prepare a dissent, and because the opinion was assigned to me to write, I have undertaken to check with the other three members of the Court who voted to reverse on the merits. I think I am correct in stating that each of us is content to let the matter be disposed of on the merits this Term, rather than either vacating or remanding the case for reconsideration in the light of Harlow, or setting the case down for reargument. If I have misapprehended the views of any of them, I am sure that I will be corrected in due time.

Sincerely,



Justice Blackmun

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 23, 1982

Re: No. 80-1074 Velde v. National Black Police Assoc.

Dear Harry:

I have talked with the three members of the Court who have joined my opinion, and it is my understanding that they, like me, are willing to dispense with the opinion and bow to the superior wisdom of your suggestion that we simply grant, vacate and remand the case for reconsideration in the light of Harlow and Butterfield. I expect they will speak for themselves in short order.

Sincerely,

whr/cna

Justice Blackmun

Copies to the Conference

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: JUN 25 1982

Recirculated: _____

Re: No. 80-1074, Velde v. National Black Police Assn.

PER CURIAM.

The judgment is vacated and the case is remanded to the Court of Appeals for the District of Columbia Circuit for further consideration in light of Harlow & Butterfield v. Fitzgerald, 457 U.S. ____ (1982).

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Stevens
Justice O'Connor

From: Justice Rehnquist

Circulated: _____

Recirculated: JUN 28 1982

Second ATEX Draft

Re: No. 80-1074, Velde v. National Black Police Assn.

PER CURIAM.

The judgment is vacated and the case is remanded to the United States Court of Appeals for the District of Columbia Circuit for further consideration in light of Harlow & Butterfield v. Fitzgerald, 457 U.S. ____ (1982).

JUSTICE POWELL and JUSTICE STEVENS took no part in the consideration or decision of this case.

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

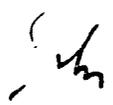
January 18, 1982

Re: 80-1074 - Velde v. National Black Police
Association, Inc.

Dear Bill:

Please add a note stating that I did not participate
in the consideration or decision of this case.

Respectfully,



Justice Rehnquist

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 25, 1982

Re: 80-1074 - Velde v. National Black
Police Assn.

Dear Bill:

Please show that I took no part in the
consideration or decision of this case.

Respectfully,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 25, 1982

Re: 80-1074 - Velde v. National Black
Police Assn.

Dear Bill:

Will you please indicate in your per curiam that Lewis and I took no part in the consideration or decision of the case.

Respectfully,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

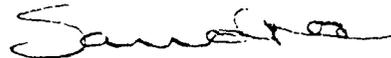
January 22, 1982

No. 80-1074 Velde v. National Black Police
Association, Inc.

Dear Bill,

As you will recall, at Conference I expressed the view that the plaintiffs had standing, but that I believed it was possible to find no "Bivens" cause of action existed. I am still of the same view and cannot join the present draft. I will await other writing, or will circulate something in due course which will attempt to address the "Bivens" question.

Sincerely,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

February 8, 1982

Personal

Re: No. 80-1074 - Velde v. National Black Police Assoc.

Dear Harry,

Thank you for your note concerning the Velde draft. I had planned to write because I could not agree with the draft on standing; however, Bill Rehnquist has now decided to approach the case on a different basis entirely. I will await Bill's new draft, as well as your draft, before proceeding further.

Sincerely,



Mr. Justice Blackmun

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

April 20, 1982

No. 80-1074 Velde v. National Black
Police Association, Inc.

Dear Bill,

Please join me in your opinion. Although the parties did not brief the issue on which the opinion is based, there appears to be little doubt that the Court has the power to decide questions not raised by the parties. I am generally more comfortable in resolving only issues which have been briefed, but I have concluded in this case we should proceed on the basis outlined.

Sincerely,



Justice Rehnquist

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CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

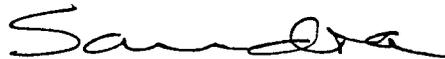
June 23, 1982

No. 80-1074 Velde v. National Black Police
Association

Dear Bill,

I agree with the proposal to grant, vacate
and remand this case in the light of Harlow v.
Fitzgerald.

Sincerely,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

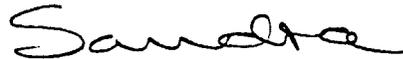
June 25, 1982

Re: No. 80-1074 Velde v. National Black Police Assn.

Dear Bill,

I agree with the per curiam.

Sincerely,



Justice Rehnquist

Copies to the Conference