

# The Burger Court Opinion Writing Database

*Department of State v. Washington Post  
Co.*  
456 U.S. 595 (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

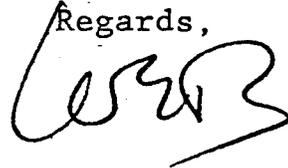
April 16, 1982

Re: No. 81-535 - U.S. Department of State v.  
Washington Post Company

Dear Bill:

I join.

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  
JUSTICE Wm. J. BRENNAN, JR.

April 15, 1982

RE: No. 81-535 Department of State v. Washington Post

Dear Bill:

I agree.

Sincerely,

*Bill*

Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

April 22, 1982

Re: 81-535 - U. S. Department of State  
v. The Washington Post Company

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Dear Bill,

I agree.

Sincerely yours,

*Byron*

Justice Rehnquist

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cpm

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

May 6, 1982

Re: No. 81-535 - United States Department of State v.  
The Washington Post Company

Dear Bill:

Please join me.

Sincerely,



T.M.

Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 16, 1982

Re: No. 81-535 - United States Dept. of State  
v. Washington Post Company

Dear Bill:

Please join me.

Sincerely,



Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

April 14, 1982

81-535 Department of State v. The Washington Post

Dear Bill:

Please join me.

Sincerely,

*Lewis*

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

APR 14 1982

Circulated: \_\_\_\_\_

Recirculated: \_\_\_\_\_

G.S.  
WHR  
Please find me  
JH

1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 81-535

UNITED STATES DEPARTMENT OF STATE, ET AL.,  
PETITIONERS, *v.* THE WASHINGTON POST  
COMPANY

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.

In September, 1979, respondent Washington Post Company filed a request under the Freedom of Information Act (FOIA), 5 U. S. C. § 552, requesting certain documents from petitioner United States Department of State. The subject of the request was defined as "documents indicating whether Dr. Ali Behzadnia and Dr. Ibrahim Yazdi hold valid U. S. passports." App. 8. The request indicated that respondent would "accept any record held by the Passport Office indicating whether either of these persons is an American citizen." *Ibid.* At the time of the request, both Behzadnia and Yazdi were Iranian Nationals living in Iran.

The State Department denied respondent's request the following month, stating that release of the requested information "would be 'a clearly unwarranted invasion of [the] personal privacy' of these persons," App. 14 (quoting 5 U. S. C. § 552(b)(3)), and therefore was exempt from disclosure under Exemption 6 of the FOIA.<sup>1</sup> Denial of respondent's request

<sup>1</sup> Exemption 6 provides that the disclosure requirements of the Freedom of Information Act do not apply to "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." 5 U. S. C. § 552(b)(6).

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

April 15, 1982

Re: No. 81-535 U.S. Department of State v. The  
Washington Post

Dear Bill:

I am happy to note that I have made a convert out of you. I am perfectly willing to adopt your suggested change with the substitution of one word: instead of the word "could", in the third line of your proposed change contained in your letter of April 15th, I would prefer to use the word "should", because if the government makes the sort of a showing described, the decision should not be discretionary with the District Court. If you have no objection to this substitution of words, I will incorporate your proposed change and circulate it in the next draft of my opinion.

Sincerely,

*WHR*

Justice Brennan

*Brennan J/*

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

Stylistic changes, pp. 3, 7

From: Justice Rehnquist

Circulated: \_\_\_\_\_

Recirculated: APR 19 1982

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 81-535

UNITED STATES DEPARTMENT OF STATE, ET AL.,  
PETITIONERS, *v.* THE WASHINGTON POST  
COMPANY

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Wash Post  
MS

STYLISTIC CHANGES THROUGHOUT

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

From: Justice Rehnquist

Circulated: \_\_\_\_\_

Recirculated: MAY 11 1982

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-535

UNITED STATES DEPARTMENT OF STATE, ET AL.,  
PETITIONERS, v. THE WASHINGTON POST  
COMPANY

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

April 15, 1982

Re: 81-535 - United States v. The Washington  
Post

Dear Bill:

Please join me.

Respectfully,



Justice Rehnquist

Copies to the Conference

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

April 30, 1982

Re: No. 81-535 U.S. Department of State v. The  
Washington Post Company

Dear Bill,

Please show me as concurring in the judgment in  
this case.

Sincerely,



Justice Rehnquist

Copies to the Conference

85 APR 30 4 0 40