

The Burger Court Opinion Writing Database

Davidson v. Cannon

474 U.S. 344 (1986)

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Granting flag for me

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

BRW is correct that in view of "arguable existence of a state tort remedy, we might not reach the Fed. "liberty interest" issue that is presented by this case.

5/28
Account discussion
still inclined to Deny - CA 4
we have seen
May 24, 1985 right
But a Grant is justifiable

MEMORANDUM TO THE CONFERENCE

Davidson v. Cannon, No. 84-6470

At the May 16 Conference when this case was first discussed, the majority view was that the case should be held for Daniels v. Williams, No. 84-5872. I relisted the case and on further reflection am convinced that cert should be granted in this case so that it can be considered together with Daniels. Like Daniels, this case concerns the issue whether official negligence resulting in personal injury to a prison inmate is a constitutionally tortious deprivation of liberty actionable under §1983. In Daniels, this question is complicated by the arguable existence of a state tort remedy for the injury sustained; accordingly, it is conceivable that the Court might hold that Parratt v. Taylor applies and thus not reach the underlying issue of whether a negligent deprivation may under some circumstances give rise to liability under §1983. In this case, however, it appears clear that there is no state tort remedy; thus, it is unlikely that the underlying issue could be avoided through a Parratt-style analysis. Accordingly, consideration of this case along with Daniels would ensure that the Court reaches both of the important issues presented by this pair of cases: whether the Parratt analysis applies to this class of claims, and whether the infliction of bodily injury as a result of the negligence of persons acting under color of state law is an actionable deprivation of liberty.

BRW

Justice White is correct that the Court could avoid deciding the ~~issue~~ liberty interest issue in Daniels by relying on the existence of a state tort remedy in that case. Since there is no state tort remedy here, the Court cannot avoid the issue in the present case. Does this make the case certworthy, however? The Court can always grant it later if it avoids the issue in Daniels, which I defer to your judgment.