**[Justice Stewart Conference Notes 10-10-80PS447F55690583][[1]](#footnote-1)**

No. 79-935, ALLEN v. McCURRY

**C.J.**

I’d reverse.

**Brennan, J.**

I’d affirm, believing collateral estoppel is never available in § 1983 federal suits. After all, collateral estoppel required mutuality at time § 1983 was enacted

**Stewart, J.**

I’d reverse.

**White J.**

§ 1983

**Marshall, J.**

I’d affirm

**Blackmun, J.**

I’d affirm, believing collateral estoppel not available where plaintiff was unwilling criminal defend ant in state litigation.

**Powell, J.**

 I’d reverse.

**Rehnquist, J.**

 I’d reverse.

**Stevens, J.**

I’d reverse, but might limit this to fourth amendment cases.

[Justice Stewart’s merits voting chart has been omitted.

The chart shows the votes reflected in his notes above]

1. Words added by the editor for clarity are enclosed in brackets as are editor comments. All footnotes have been added by the editor. Interpretations of which the editor is particularly uncertain are indicated in italics and alternative interpretations may be indicated in footnotes. Items in small caps were printed or typed in the original rather than handwritten. [↑](#footnote-ref-1)