

December 12, 1983

Mr. Justice:

Re: Migra

I have put together a draft in this case incorporating the changes that I was recommending. Let me know what you think. I have two or three footnotes to add, which I will include when I have located appropriate sources. When I read it over, the only part that still gives me some trouble is part III, in which Ohio preclusion law is discussed. Since the ultimate disposition of the case is a remand for the district court to interpret Ohio preclusion law, the discussion of it in the opinion does not have much purpose other than to show that Ohio preclusion law is in flux. Moreover, the DC on remand may feel that the discussion is meant to predetermine the disposition of the preclusion issue on remand. If you cut out that entire section, (pp. 14-17) with the exception of the last paragraph of it in which the case is remanded, the opinion would be more concise and would not have the detour. I am going to have one or more of my co-clerks read it over to give me suggestions, which I shall pass along to you.

I am turning my efforts to Sony until I get marching orders of how to proceed in this case.

RB