

The Chief Justice Affirm

A consistent pattern would establish a policy.
Here there was an ad hoc decision here.
Only if Seagold is applied retroactively
do we reach the policy Q.
One act ~~is~~ not a policy.

Justice Brennan Reverse

Monell requires action by the municipality
~~not by its agents~~ - not by its agents
unless they make "policy".
A single act may be an official act
pursuant to a policy. Under this test,
County is liable.

Sheriff could make policy, & could
seek advice from Prosecutor.

Seagold issue not relied on by County -
so we can assume it applied correct Fed. law.

Justice White

Reverse - unless we "get to Seagold"

City was held liable & did not appeal.

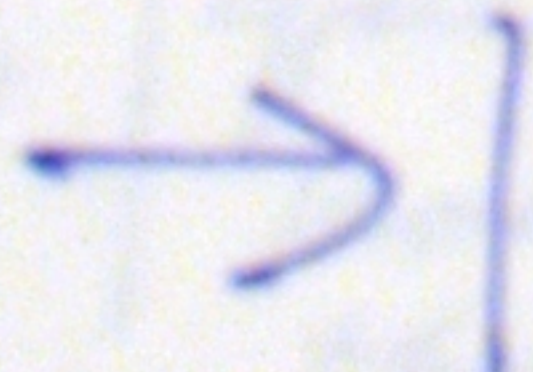
There ~~is~~ clearly was a policy here. (BRW
relied - as I understand him - on what
Sheriff said had been done all the time.)

But would not say ~~a~~ a single act
creates policy. In many cases, a single
act is a decision that stands alone.

~~Compare with Wygis as to Seagold~~

Not sure ~~to~~ he agrees Seagold should
be applied retroactively.

Sheriff could
make policy



Justice Marshall

Affirm (changed to Reverse)

A capias, signed by a judge (as here),
justifies breaking into a house to arrest.
There is a bench warrant.

(But Seagald is to contrary & TM joined it)

Justice Blackmun

Rev.

Measure of ~~liability~~ liability should not
be judged on whether there was one
or more acts.

Justice Powell

Affirm (Both DC & CA 6 found no "policy")

Involves only a single decision - a "^{split} ~~split~~ of-the-moment" decision by the County Prosecutor responding to a Q. from two Deputy Sheriffs as to whether to force entry ~~to~~ into a bldg to arrest two persons for whom a capias had been issued ^{by two judges}. The Deputies telephoned the Asst. Prosecutor who asked the Prosecutor - who answered off-the-cuff.

The key phrase in Monell is whether the act in question "fairly [can] be said to represent official policy". The term "policy" denotes more than one isolated answer to a question.

See my notes
of 12/3

Justice Rehnquist

Affirm

Wrong to apply ~~Seagoled~~ Seagoled retroactively
if that ~~is~~ issue is here.

If we reach the Monell issue, Bill
agrees with me.

Justice Stevens

Reverse

Policy often is made by a single
decision.

Justice O'Connor

Rev. on Monell issue.

CA 6 says ^{under} Ohio law a County Atty has
policy making authority.

Could agree that Seagoled is not
retroactive, but was not argued here