

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

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

December 30, 1987

From: Justice Stevens

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IN DRAFT

SUPREME COURT OF THE UNITED STATES

Re: No. 86-772 - City of St. Louis v. Praprotnik

Dear Sandra:  
CITY OF ST. LOUIS, PETITIONER v.  
JAMES H. PRAPROTNIK

I await further writing.

Sincerely,

Justice O'Connor

cc: The Conference

If this case involved nothing more than a personal vendetta between a municipal employee and his superiors, it would be quite wrong to impose liability on the City of St. Louis. In fact, however, the jury found that top officials in the City administration, relying on pretextual grounds, had taken a series of retaliatory actions against respondent because he had testified truthfully on two occasions, one relating to personnel policy and the other involving a public controversy of importance to the Mayor and the members of his cabinet. No by the Court may define the standards for imposing liability upon municipalities in § 1983 litigation, the District Court in this case should be affirmed.

In order to explain why I believe that affirmance is required by this Court's precedents, it is necessary to begin

This would, of course, be an easy case if the Court disavowed its dicta in Part II of the opinion in *Morall v. New York City Dept. of Social Services*, 436 U. S. 558, 651-695 (1978), see id., at 714, statement of STEVENS, J., concurring in part. Like many commentators who have confronted the question, I remain convinced that Congress intended the doctrine of respondent superior to apply in § 1983 litigation. See *Oklahoma City v. Tuttle*, 471 U. S. 355, 394-401 (1985) (STEVENS, J., dissenting); *Pendleton v. City of Cheesman*, 186 S. Ct. 1287, 1302 n. 4 (STEVENS, J., dissenting); see also Whitman, *Government Responsibility for Constitutional Torts*, 58 Mich. L. Rev. 225, 238 n. 45 (1970). Given the Court's retention of the

12/10/87