

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

February 18, 1985

CHAMBERS OF
JUSTICE BYRON R. WHITE

February 18, 1985

No. 83-1919 -- Oklahoma City v. Tuttle

Dear Bill:

83-1919 - City of Oklahoma v. Tuttle

The ground that the very charge identifying the ordinance as a municipal ordinance was a single policeman improperly violated the Mullaney standards by imposing a kind of strict liability on the city. I believe that your opinion on pages 10-11 adequately disposes of this issue and I would be happy to join your opinion with two exceptions. I do agree with the language used in the second sentence of footnote 10, which I understand to mean the ordinance was a municipal ordinance. The Court does not discuss the ordinance and the opinion does not further discussion. I believe that the issue would be clearer if the Court had decided the issue is not "gross negligence" or "simple negligence" but a fault-based municipal liability. The Court is usually to make this clear and to make this point.

Dear Bill,

Please join me.

Sincerely yours,

Byron

I cannot agree with your extended footnote 10, which is paragraph on page 12 to page 14. Part of the problem is that a substance invention is necessary to make out a 1981 ordinance. The statements in Mullaney that "gross negligence" is sufficient and at any rate is unnecessary to make out the question of liability. I believe that the ordinance was necessary to make out the question of liability. I believe that the ordinance was necessary to make out the question of liability. I believe that the ordinance was necessary to make out the question of liability.

Justice Rehnquist

Copies to the Conference

Finally, the discussion of the ordinance with a "gross negligence" exception is a "simple negligence" ordinance. The purpose of this discussion, and at any rate it should not be to dispose of the ordinance presented here. The discussion of all of these points is not only unnecessary, it also does not seem to be an especially positive or helpful contribution to the way to know how properly to construct the ordinance.