

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

February 23, 1978

MEMORANDUM TO THE CONFERENCE

Re: 75-1914 - Monell v. Dept. of Social Services

Like Lewis, I found the two memoranda especially valuable. I am persuaded by Bill Brennan that Monroe misconstrued the actual intent of Congress on the question whether a municipality can be a person. Until I received Lewis' memorandum this afternoon, I was persuaded by Bill Rehnquist's discussion of stare decisis that we should probably not overrule the Monroe holding. Lewis now has be back in something of a quandary, and I would welcome further discussion of the case at Conference. I thought I should let you know that my views are not as settled as I had thought at the time of our original conference.

I should add that I do have a great deal of difficulty with Lewis' suggestion that the good faith defense should be extended to municipal corporations. Such an extension could hardly be justified on the rationale that we need to encourage people to accept public employment and to discharge their duties in a fearless manner.

Respectfully,

Jh