

To: Mr. Justice Blackmun
From: Penda Hair
Re: Owen v. Independence, Missouri, no. 78-1779
Date: March 28, 1980

I recommend that you join Mr. Justice Brennan's circulation in this case. You voted with the majority at conference, and the opinion is very thorough and convincing.

Mr. Justice Powell has circulated a preliminary version of the dissent. I do not find the dissent persuasive. Mr. Justice Powell's major point is that the City's conduct did not violate due process. Although this is a close question, I think there was a stigma attached to the discharge, due to the official actions of the City Council.

Mr. Justice Powell takes the position that municipalities had a common law immunity for actions done in good faith. I do not think this position is supported. Mr. Justice Brennan's opinion explains why municipalities' common law immunities are not relevant to their immunity under § 1983.