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Cities, Counties Vulnerable

Civil Rights Immunity Lifted

WASHINGTON (AP) — A deeply divided Supreme Court today made the nation's cities and counties easier targets for civil rights lawsuits.

By a 5-4 vote, the court ruled that the cities and counties enjoy no immunity from lawsuits by persons seeking money for alleged federal law violations — even unintentional violations — of their civil rights.

The court said that if an individual proves city officials while carrying out official policy violated his or her rights, the city must pay damages.

Political subdivisions, unlike their employees, never are entitled to a qualified, "good faith" immunity from such lawsuits.

Past Supreme Court rulings have es-

tablished such a "good faith" immunity for public officials.

"The knowledge that a municipality will be liable for all of its injurious conduct, whether committed in good faith or not, should create an incentive for officials who

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may harbor doubts about the lawfulness of their intended actions to err on the side of protecting citizens' constitutional rights," Justice William J. Brennan Jr. wrote for the court.

Brennan's opinion was joined by Justices Byron R. White, Thurgood Marshall, Harry A. Blackmun and John Paul Stevens.

Justice Lewis F. Powell Jr. filed the dissenting opinion and was joined by Chief

Justice Warren E. Burger and Justices Potter Stewart and William H. Rehnquist.

The decision casts doubt on the legitimacy of laws in 44 states and the District of Columbia giving cities and counties a "good faith" immunity from civil rights lawsuits.

And it directly affects former Independence, Mo., police chief George Owen's lawsuit against the city stemming from his 1972 dismissal.

The court reversed a federal appeals court ruling that the city was immune from Owen's lawsuit seeking back pay.

Owen served for five years as Independence police chief until April 18, 1972. He was fired one day after a city councilman

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rose.

Court Opens Way For Suits Against Municipalities

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read a statement "impugning Owen's honesty and integrity," as one court described it.

The statement alleged that Owen had misappropriated police department money and that numerous irregularities had occurred within the department during his tenure.

'GOOD OF THE SERVICE'

No specific reason accompanied Owen's firing, but the city charter said he could be ousted only when the city manager deemed it "necessary for the good of the service."

Owen initially won his fight against the city when the 8th U.S. Circuit Court of Appeals ordered Independence to pay Owen the amount of money he would have earned to retirement if he had not been fired.

That decision was set aside by the Supreme Court two years ago, and went back to the appeals court for further study.

In early 1979, the 8th Circuit court ruled that Owen's civil rights had been violated but that he was not entitled to collect damages because of the city's qualified immunity.

Today's decision left unclear whether Owen could now collect damages originally awarded or whether his case will be subject to further litigation.

Until a 1978 Supreme Court decision, cities and counties enjoyed total immunity from civil rights lawsuits. Now, they have none.