

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

June 14, 1978

MEMORANDUM TO THE CONFERENCE

Re: No. 77-1129 - Wilson v. Dellums

This is one of the cases held for Monell which is covered by Bill Brennan's hold memorandum dated June 13th. The reason for this circulation has nothing to do with the merits, or with Bill's recommendation of a proposed disposition, but with an unsigned "item" which has appeared in the new "Legal Times of Washington" dated June 12th. As you will recall, this is the new weekly legal magazine edited by Dave Beckwith. The item appears on page 3, under the title "Inadmissible" (whatever that signifies), and so far as I can tell indicates that our chambers has called for the record in this case.

The case arose out of the "May Day" demonstrations in 1971, and I have consistently disqualified myself in such cases. I had likewise intended to do so in this case, and so far as our chambers records indicate we did not call for the record. But the item in the "Legal Times" has prompted a telephone call from the very assiduous counsel for the trial court plaintiffs in the case, relaying to me through my secretary his urgent suggestion that I recuse myself. If I am correct, I believe that Harry mentioned at an earlier Conference that the same suggestion had been made by the same counsel to him for different reasons.

The larger question, however, which troubles me in this situation is the understanding which I had at least up to now that the action of a chambers in calling for the record in a case, or calling for a response, was an internal matter which was not to be made public by the Clerk's office. I don't know that there is any very good reason for saying that it should or should not be made public, and I personally would have no objection if the Court were to adopt a policy to the effect that any such request by a chambers would, upon inquiry, be made available to the public and to the press. But if I am right that up to now the policy has been to the contrary, I am very concerned by the fact that apparently someone inside the Court, whether in the Clerk's office or elsewhere, has seen fit to "leak" this information to the "Legal Times". I really don't much care whether information of this sort is or is not to be made available to the press and public upon request, but I very much care that Court employees respect a decision of the Conference or a practice of the Conference that such information is not to be made public.

Sincerely, 