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Lewis F. Powell
US Supreme Court Justice

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

April 30, 1981

80-5303 Beltran v. Myers

MEMORANDUM TO THE CONFERENCE:

The Chief requested me to draft a Per Curiam opinion that would DIG this case.

As you will recall, the Boren-Long Amendment, passed by Congress December 28, 1980, made material changes in the relevant law. These changes, as I understood them when we discussed the case, permitted states to impose transfer-of-assets restrictions substantially similar to the California transfer-of-assets rule sustained by CA9 in this case. This Amendment, which takes effect on July 1, prompted me to join others in voting to DIG the case. A closer look, however, reveals that a significant inconsistency may exist between California law and the new federal law. The change relates to whether the residence of a claimant may be given away without a corresponding loss in Medicaid coverage.

Because of this difference, as summarized in the attached draft opinion, rather than DIG the case (leaving the judgment below standing), it seems appropriate to vacate CA9's decision and remand the case for reconsideration in light of the recent statutory change.

L.F.P.
L.F.P., Jr.

SS