

5-18-1981

## 05-18-1981 Justice Stevens, Concurring

John Paul Stevens  
*US Supreme Court Justice*

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SUPREME COURT OF THE UNITED STATES

No. 80-5303

Antonia Beltran, Petitioner,  
v.  
Beverlee A. Myers, Individually  
and as Director, California  
State Department of  
Health, et al.

On Writ of Certiorari to the  
United States Court of  
Appeals for the Ninth  
Circuit.

[May 18, 1981]

JUSTICE STEVENS, with whom JUSTICE BRENNAN, JUSTICE WHITE, and JUSTICE MARSHALL join, concurring in the judgment.

For the reasons stated by the United States Court of Appeals for the Second Circuit in *Caldwell v. Blum*, 621 F. 2d 491 (1980), cert. pending No. 79-2034,<sup>1</sup> the application of California's "transfer-of-assets" rule to the medically needy class members prior to the effective date of the Boren-Long Amendment, Public Law No. 96-611, is prohibited by existing federal law. The judgment of the Court of Appeals for the Ninth Circuit in this case must therefore be set aside. On remand, the Court of Appeals should, of course, consider the impact of the statutory change on the class members' future rights, but it also should determine what relief is appropriate to remedy the past violations.<sup>2</sup> Cf. *Quern v. Jordan*, 440 U. S. 332.

<sup>1</sup> See also *Fabula v. Buck*, 598 F. 2d 869 (CA4 1979); *Robinson v. Pratt*, 497 F. Supp. 116 (Mass. 1980), appeal pending, No. 80-1750 (CA1); *Scarpuzza v. Blum*, 73 A. D. 2d 237, 426 N. Y. S. 2d 505 (1980). Cf. *Blum v. Caldwell*, — U. S. — (MARSHALL, J., In Chambers).

<sup>2</sup> In addition to declaratory and injunctive relief, the plaintiffs seek "reimbursement for those amounts which they had been forced to pay because of the state's transfer rule." *Dawson v. Myers*, 622 F. 2d 1304, 1309 (CA9 1980). The Boren-Long Amendment clearly does not control this claim for reimbursement for sums paid by the plaintiffs in the past.

Accordingly, I concur in the Court's decision to vacate the judgment of the Court of Appeals and to remand this case for further proceedings.