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10-19-1982 Correspondence from Stevens to White

John Paul Stevens
US Supreme Court Justice

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HAB

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

October 19, 1982

Re: No. 81-430 - Illinois v. Gates

Dear Byron:

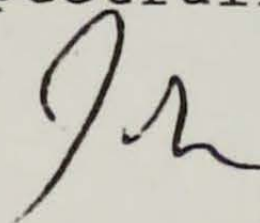
If a majority of the Court believes that the warrant was properly issued, I must confess to some puzzlement as to the need for a "good faith" exception from the Exclusionary Rule. I should think that the question whether such an exception should be created could best be confronted in a case in which the Court were convinced that there had been a violation of the Fourth Amendment but that there were sound reasons for nevertheless admitting the evidence.

A second matter that I believe the Court should consider before reaching out for the "good faith" issue in this case is that Illinois is one of the states which followed the Exclusionary Rule long before this Court decided it should be imposed upon the states. If we should hold that the Federal Constitution does not require exclusion when the police officers acted in good faith, I should think it would still be necessary for the Court to decide whether or not the Fourth Amendment was violated in order to give the Illinois court the guidance it would need in deciding whether or not the evidence should be suppressed. I do not understand anyone to suggest that this Court would have the power to require a state court to create a good faith exception to its own Exclusionary Rule.

Finally, I would suggest that the frequency with which the "good faith" argument is advanced makes it pretty clear that we will receive an appropriate case in due course and that there really is no need to take this particular case in order to reach the issue-- particularly when this judgment is due for reversal in any event.

Accordingly, my vote is to deny your motion.

Respectfully,

A handwritten signature in cursive script, appearing to be 'JW', written in dark ink.

Justice White

Copies to the Conference