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03-21-1988 Correspondence from Kennedy to Rehnquist

Anthony M. Kennedy
US Supreme Court Justice

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

CHAMBERS OF
JUSTICE ANTHONY M. KENNEDY

March 21, 1988

Re: Bennett v. Arkansas, No. 86-6124

Dear Chief,

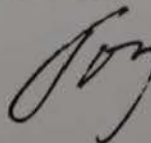
As you may recall, petitioner's counsel informed us at oral argument that because Shelton did not complete a necessary IFP affidavit, his petition for certiorari was not filed by the clerk. Johnson was a party in the proceedings but did not seek certiorari. In view of the jurisdictional deficiencies, do you still wish the per curiam to cover Shelton and Johnson?

The Bennett case squarely raises the proper interpretation of 42 U.S.C. 407(a) and the per curiam is comprehensive and quite correct as to that claim.

I recognize that if you excise Shelton's claim, you cannot squarely reach 38 U.S.C. §3101, though it seems to me that in the course of distinguishing Rose v. Rose we could make our views on the subject sufficiently clear.

Please let me know if I am missing something or if you would like more specific comments.

Sincerely,



The Chief Justice

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