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05-02-1981 Correspondence from Powell to Rehnquist

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.

May 2, 1981

80-5303 Beltran v. Myers

Dear Bill:

I agree that we could DIG this case, and if this is the wish of five other Justices I will be happy to circulate a draft to this effect.

But my personal view is that it would be more appropriate to remand the case, as I have proposed. This is a class action case that involves all Californians similiarly situated. They may have a valid claim under state law in view of the apparently significant difference between the "transfer of assets" rules with respect to residences. They could as you suggest, commence a new suit. Rather than impose this burden, I'd rather leave it to CA9 and the DC to decide in this suit whether petitioners have a claim.

If we DIG the case, we leave the judgment of the Court of Appeals in effect. This would foreclose the granting of any relief to which petitioners may be entitled.

Sincerely,

Mr. Justice Rehnquist

lfp/ss

cc: The Conference