

Supreme Court of the United States  
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Re: No. 17-269, *Washington v. United States, et al.*

Dear Counsel:

I am writing to inform the parties that Justice Kennedy learned recently that, while serving as a judge on the Ninth Circuit Court of Appeals, he participated in an earlier phase of this case. See *United States v. Washington*, 759 F. 2d 1353 (CA9 1985) (en banc). The ordinary conflict check conducted in Justice Kennedy's Chambers inadvertently failed to find this conflict.

Consistent with the Code of Conduct for United States Judges, Justice Kennedy has determined that he should not continue to participate in this case.

Sincerely,

Scott S. Harris  
Clerk of the Court