

PRECEDENTIAL

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No: 03-4892/04-1257

ROBERT DIBELLA; JOHN MCLAUGHLIN,

Appellants - (Case No.03-4892)

v.

BOROUGH OF BEACHWOOD, a municipality
organized under the laws of the State
of New Jersey; BEACHWOOD POLICE DEPARTMENT;
JOHN WAGNER, CHIEF, in his official capacity
and personally; JOHN ZUPA, POLICE OFFICER,
personally and in his official capacity

ROBERT DIBELLA; JOHN MCLAUGHLIN

v.

BOROUGH OF BEACHWOOD, a municipality organized
under the laws of the State of New Jersey;
BEACHWOOD POLICE DEPARTMENT; JOHN WAGNER,
Chief, in his official capacity and personally;
JOHN ZUPA, Police Officer, personally and in
his official capacity

Appellants - (Case No. 04-1257)

On Appeal from the United States District Court
for the District of New Jersey
District Court No. 02-CV-3883
District Judge: The Honorable Garrett E. Brown, Jr.

Argued on January 11, 2005

Before: ROTH and CHERTOFF*, *Circuit Judges*, and SHAPIRO,** *District Judge*.

Harry J. Levin, Esquire (Argued)
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Counsel for Appellants/Cross Appellees

David R. Leahy, Esquire (Argued)
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Counsel for Appellees/Cross Appellants

ORDER AMENDING OPINION

ROTH, Circuit Judge

IT IS ORDERED that the published Opinion in the above case filed May 12, 2005, be amended as follows:

On Page 5, change the citation for *Wittekamp v. Gulf* to reflect only the "U.S." citation, i.e., 510 U.S. 917 (1993).

On Page 6, paragraph 3, 3rd line, the *id.* page number for the *Albright v. Oliver* citation should be changed from 812 to 271.

* Judge Chertoff heard oral argument in this case but resigned prior to the time the opinion was filed. The opinion is filed by a quorum of the panel. 28 U.S.C. § 46(d).

**Honorable Norma L. Shapiro, Senior District Judge for the United States District Court for the Eastern District of Pennsylvania, sitting by designation.

On Page 7, 1st line, the *id.* page number should be changed from 813 to 273.

By the Court,

/s/ Jane R. Roth
Circuit Judge

Dated: May 31, 2005