

The Burger Court Opinion Writing Database

U.S. Bulk Carriers, Inc. v. Arguelles
400 U.S. 351 (January 13, 1971)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

December 2, 1970

PERSONAL

Re: No. 29 - U. S. Bulk Carriers v. Arguelles

Dear Bill:

I like your opinion in this case and its narrow thrust that will not undermine the highly desirable business of using grievance procedures rather than courts in disputes generally.

Two questions occur to me:

(1) After Republic Steel v. Maddox it seems to me that Moore v. Illinois Central has lost much of its "muscle". Is Moore really an essential cite?

(2) Of less importance but interesting: isn't the "guardian" concept (of courts over seamen) pretty much limited today to wage claims because of the peripatetic nature of the ship and ship's masters, a factor not much different from what it was in the 18th Century?

Regards,

WJD

Mr. Justice Douglas

WD

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

CHAMBERS OF
THE CHIEF JUSTICE

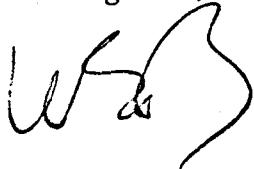
January 7, 1971

Re: No. 29 - U.S. Bulk Carriers v. Arguelles

Dear Bill:

My concurrence in the above stands as before.

Regards,



Mr. Justice Douglas

cc: The Conference

2

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

CHAMBERS OF
JUSTICE HUGO L. BLACK

November 30, 1970

Dear Bill:

Re: No. 29- U.S. Bulk Carriers, Inc. v.
Dominic B. Arguelles.

Please note at the foot of your opinion:

"MR. JUSTICE BLACK concurs in the
judgment and opinion of the Court while
still adhering to his dissent in Republic
Steel Corp. v. Maddox, 379 U. S. 650."

Sincerely,

Hugo
Hugo

Mr. Justice Douglas

WD

To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

2

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.
Circulated: 11/15/70

No. 29.—OCTOBER TERM, 1970

Recirculated:

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
Dominic B. Arguelles. } On Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit.

[December —, 1970]

MR. JUSTICE DOUGLAS delivered the opinion of the Court.

This is a suit for seaman's wages accruing from services rendered in foreign commerce. Federal jurisdiction was claimed under 28 U. S. C. § 1333 which grants exclusive jurisdiction to the district courts in any "admiralty or maritime" case. A collective bargaining agreement contained provisions concerning wages payable when seamen were dismissed or when their employment was terminated; and it provided a grievance procedure and arbitration of disputed claims. Those procedures were not pursued by the seaman. He sued in the federal court instead.

The District Court granted the employer's motion for summary judgment, ruling that the principles we announced in a series of decisions starting with *Textile Workers v. Lincoln Mills*, 353 U. S. 448, and extending to *Republic Steel Corp. v. Maddox*, 379 U. S. 650, governed this maritime case and that the federal court had no jurisdiction to adjudicate the maritime claim but only to enforce the grievance procedure or an arbitration award that might be given. The Court of Appeals reversed by a divided vote, 408 F. 2d 1965, and we granted certiorari, 395 U. S. —.

File Rec'd
11/30/70

4

SUPREME COURT OF THE UNITED STATES

No. 29.—OCTOBER TERM, 1970

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
Dominic B. Arguelles. } On Writ of Certiorari to the
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[December —, 1970]

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The District Court granted the employer's motion for summary judgment, ruling that the principles we announced in a series of decisions starting with *Textile Workers v. Lincoln Mills*, 353 U. S. 448, and extending to *Republic Steel Corp. v. Maddox*, 379 U. S. 650, governed this maritime case and that the federal court had no jurisdiction to adjudicate the maritime claim but only to enforce the grievance procedure or an arbitration award that might be given. The Court of Appeals reversed by a divided vote, 408 F. 2d 1065, and we granted certiorari, 398 U. S. 957.

WD

To: The
Mr. Justice Douglas
Mr. Thurgood Marshall
Mr. Justice BREWSTER
Mr. Justice BLACK
Mr. Justice MARSHALL
Mr. Justice BLACKMUN

SUPREME COURT OF THE UNITED STATES

No. 29.—OCTOBER TERM, 1970

12/1/70

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
Dominic B. Arguelles. } On Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit.

[December —, 1970]

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short throughout
4.5.6

To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

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SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 29.—OCTOBER TERM, 1970

U. S. Bulk Carriers, Inc.,
Petitioner,
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12/2/70

[December —, 1970]

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

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From: Douglas, J.

SUPREME COURT OF THE UNITED STATES

No. 29.—OCTOBER TERM, 1970

12/3/70

U. S. Bulk Carriers, Inc.,
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Dominic B. Arguelles. } On Writ of Certiorari to the
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[December —, 1970]

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/ 5, 1
To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

FILED IN THE CLERK'S OFFICE

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12/18/70

SUPREME COURT OF THE UNITED STATES

No. 29.—OCTOBER TERM, 1970

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
Dominic B. Arguelles. } On Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit.

[December —, 1970]

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To: The Chief Justice
Mr. Justice Black
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

No. 29.—OCTOBER TERM, 1970

Dated:

12/10/70

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
Dominic B. Arguelles. } On Writ of Certiorari to the
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[December —, 1970]

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December 15, 1970

Re: No. 39 - Bulk Carriers v. Arguelles

Dear Bill:

At our last Conference I indicated that Brother White's dissent had given me pause, and that I wanted to take more time to review my final position in this case. I have studied the matter further, and I now write to let you know that I am still on your side of the cause. However, I intend to write a separate opinion, and I am not sure yet whether it will come out as one pointing your opinion or merely concurring in the result.

Having been much preoccupied with the Voting Cases, and the current argument list, I shall not be able to get my opinion into circulation before we rise for the Christmas recess.

Sincerely,

J. M. H.

Mr. Justice Douglas

CC: The Conference

Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

From: Harlan, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: JAN 6 1971

No. 29.—OCTOBER TERM, 1970

Recirculated: _____

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
Dominic B. Arguelles. } On Writ of Certiorari to the
United States Court of Appeals for the Fourth Circuit.

[January —, 1971]

MR. JUSTICE HARLAN, concurring.

I join in the opinion and judgment of the Court, but deem it advisable to add some thoughts of my own.

I

I do not think that the mere provision by federal statute of a judicial forum for enforcement of the wage claims of a subclass of workers forecloses application of the arbitration principles of *Textile Workers v. Lincoln Mills*, 353 U. S. 448 (1957), and *Republic Steel Corp. v. Maddox*, 379 U. S. 650 (1965); nor do I understand the Court's opinion today to so hold. In *Smith v. Evening News Assn.*, 371 U. S. 195 (1962), we held that a suit in the state courts by an individual employee charging employer discrimination in violation of the collective-bargaining agreement was not foreclosed by the availability of an unfair labor practice proceeding before the National Labor Relations Board based on the same conduct. There we explicitly noted the absence of a grievance arbitration provision in the contract which had to be exhausted before recourse could be had to the courts. *Smith, supra*, 196 n. 1. Later, in *Republic Steel Corp. v. Maddox*, 379 U. S. 650, 652 (1965), we cited this portion of *Smith* as support for the broadly stated proposition that “[a]s a general rule in cases to which federal law applies, federal labor policy requires that individual employees wishing to assert contract

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

SUPREME COURT OF THE UNITED STATES

cc: Harlan, J.

No. 29.—OCTOBER TERM, 1970

Circulated:

Recirculated:

JAN 9 1971

U. S. Bulk Carriers, Inc.,
Petitioner,
v.
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[January 13, 1971]

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

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 2, 1970

RE: No. 29 - U.S. Bulk Carriers, Inc. v.
Arguelles

Dear Byron:

Please join me in your dissent in the
above.

Sincerely,



Mr. Justice White

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

December 2, 1970

29 - U. S. Bulk Carriers v. Arguelles

Dear Byron,

I am glad to join your dissenting opinion
in this case.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Blackmun

1

From: White, J.

Circulated: 12-2-70

SUPREME COURT OF THE UNITED STATES

No. 29.—OCTOBER TERM, 1970

Recirculated:

U. S. Bulk Carriers, Inc.,
 Petitioner,
 v.
 Dominic B. Arguelles. } On Writ of Certiorari to the
 United States Court of Appeals for the Fourth Circuit.

[December —, 1970]

MR. JUSTICE WHITE, dissenting.

Respondent Arguelles is a seaman who signed onto the SS "U. S. Pecos," a merchant ship owned by petitioner, on August 3, 1965, for six months' employment at a stated monthly wage. The employment relationship was governed by the collective-bargaining agreement between petitioner and the National Maritime Union, AFL-CIO, of which respondent is a member.

On February 3, 1966, the day after respondent's shipping papers expired by their terms, the *Pecos* anchored off Cape St. Jacques, South Vietnam, awaiting authorization to proceed to Saigon harbor. Respondent concedes that congestion in the harbor was the cause of the extended wait offshore.¹ During this time, Saigon port officials refused to grant pratique, or quarantine clearance, to crew members. Nonetheless, respondent demanded discharge or shore leave, both of which were refused.² On February 13, the *Pecos* was authorized to, and did, proceed to the harbor and tie up at a designated

¹ Brief of respondent in opposition to certiorari, at 1-2.

² *Id.*, Art. III, § 2, of the bargaining agreement provides overtime pay for restriction to ship except when shore leave is prevented by order of foreign governments. In such cases, the bargaining agreement requires the captain to "produce a copy of the government restriction order when the crew is paid off." Respondent now seems to concede that the government's failure to grant pratique prevented shore leave, but alleges that "the captain failed to conform to the procedures required to show the crew that pratique was refused by

STYLISTIC CHANGES THROUGHOUT.

Also SEE PAGES: 1, 9

To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Blackmun

2

SUPREME COURT OF THE UNITED STATES ^{Argued} White, J.

Circulated:

No. 29.—OCTOBER TERM, 1970

Recirculated: 12-2-70

U. S. Bulk Carriers, Inc.,
 Petitioner,
 v.
 Dominic B. Arguelles. } On Writ of Certiorari to the
 } United States Court of Ap-
 } peals for the Fourth Circuit.

[December —, 1970]

MR. JUSTICE WHITE, with whom MR. JUSTICE BREN-
 NAN and MR. JUSTICE STEWART join, dissenting.

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To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
 Mr. Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Blackmun

p. 9

SUPREME COURT OF THE UNITED STATES

Opinion: White, J.

No. 29.—OCTOBER TERM, 1970

Circulated:

Recirculated: 12-7-70

U. S. Bulk Carriers, Inc.,
 Petitioner,
 v.
 Dominic B. Arguelles.

On Writ of Certiorari to the
 United States Court of Appeals for the Fourth Circuit.

[December —, 1970]

MR. JUSTICE WHITE, with whom MR. JUSTICE BRENNAN and MR. JUSTICE STEWART join, dissenting.

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To: The Chief Justice
 Mr. Justice Black
 Mr. Justice Douglas
 Mr. Justice Harlan
~~Mr.~~ Justice Brennan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Blackmun

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110
 SUPREME COURT OF THE UNITED STATES *White, J.*

No. 29.—OCTOBER TERM, 1970

Circulated:

Recirculated:

12-10-70

U. S. Bulk Carriers, Inc.,
 Petitioner,
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[December —, 1970]

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Supreme Court of the United States

Washington, D. C. 20542

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 3, 1970

No. 29 - U.S. Bulk Carriers, Inc. v. Arquelles

Dear Byron:

Please join me in your dissent.

Sincerely,


T.M.

Mr. Justice White

cc: The Conference

November 30, 1970

Re: No. 29 - U. S. Bulk Carriers v. Arguelles

Dear Bill:

Please join me in the opinions you have prepared
for this case.

Sincerely,

H. A. B.

cc: Justice Douglas

cc: The Conference