

The Burger Court Opinion Writing Database

Chevron Oil Co. v. Huson

404 U.S. 97 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



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

CHAMBERS OF
THE CHIEF JUSTICE

December 3, 1971

Re: No. 70-11 - Chevron Oil Co. v. Huson

Dear Potter:

Please join me.

Regards,

WZB

Mr. Justice Stewart

cc: The Conference

3 141

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

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

From: Douglas, J.

No. 70-11

Circulated: 11-27

Chevron Oil Company,
Petitioner,
v.
Gaines Ted Huson.

On Writ of Certiorari to the
United States Court of Ap-
peals for the Fifth Circuit.

Recirculated: _____

[November —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

Rodrigue v. Aetna Casualty & Security Co., 395 U. S. 352, does not, with all respect, require reversal in this case.

Rodrigue, like the present case, arose under the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U. S. C. § 1331 *et seq.* That Act created a federal cause of action for off-shore injuries enforceable in the federal courts, but made state laws applicable. 43 U. S. C. § 1333 (a)(2).

In *Rodrigue*, La. Civ. Code Art. 2315 (1970) was relevant, which provides in part: "The right to recover all other damages caused by an offense or quasi offense, if the injured person dies, shall survive for a period of one year from the death of the deceased"

In the present case Art. 3536 of the Code is applicable and it reads: "The following actions are also prescribed by one year:

"That for injurious words, whether verbal or written, and that for damages caused by animals, or resulting from offenses or quasi offenses."

The latter limitation is "prescriptive" only, *i. e.* that while the Louisiana remedy is barred, the right is not. Under Art. 3536, the limitation runs only to the *remedy* and would not be applicable in another forum applying the substantive right. Respondent, therefore, argues

Bm

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4th DRAFT

To: The Chief Justice

~~Mr. Justice Black~~
~~Mr. Justice Brennan~~
~~Mr. Justice Burger~~
~~Mr. Justice Douglas~~
~~Mr. Justice Harlan~~
~~Mr. Justice Marshall~~
~~Mr. Justice Stewart~~
~~Mr. Justice Tamm~~
~~Mr. Justice White~~
~~Mr. Justice Brandeis~~

SUPREME COURT OF THE UNITED STATES

No. 70-11

Circulated: _____

Recirculated: 11-29

Chevron Oil Company.
Petitioner.

v.

Gaines Ted Huson.

On Writ of Certiorari to the
United States Court of Ap-
peals for the Fifth Circuit.

[December —, 1971]

MR. JUSTICE DOUGLAS.

Rodrigue v. Aetna Casualty & Security Co., 395 U. S. 352, does not, with all respect, require reversal in this case. Accordingly, I would affirm the judgment of the Court of Appeals without reaching the question of the retroactivity of *Rodrigue*.

Rodrigue, like the present case, arose under the Outer Continental Shelf Lands Act, 67 Stat. 462, 43 U. S. C. § 1331 *et seq.* That Act created a federal cause of action for off-shore injuries enforceable in the federal courts, but made state laws applicable. 43 U. S. C. § 1333 (a)(2).

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To: The Chief Justice

~~Mr. Justice Black~~

~~Mr. Justice Brennan~~

~~Mr. Justice Stewart~~

~~Mr. Justice White~~

~~Mr. Justice Marshall~~

~~Mr. Justice Harlan~~

~~Mr. Justice Burger~~

5th DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-11

Circulated: _____

Recirculated: 12-2

Chevron Oil Company.

Petitioner.

v.

Gaines Ted Huson.

On Writ of Certiorari to the
United States Court of Ap-
peals for the Fifth Circuit.

[December —, 1971]

MR. JUSTICE DOUGLAS.

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The latter limitation is "prescriptive" only, *i. e.* that while the Louisiana remedy is barred, the right is not. Under Art. 3536, the limitation runs only to the *remedy* and would not be applicable in another forum applying

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141
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

December 2, 1971

RE: No. 70-11 - Chevron Oil v. Huson

Dear Potter:

I agree.

Sincerely,



Mr. Justice Stewart

cc: The Conference

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Please join me

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

OK

2nd DRAFT

From: Stewart, J.

NOV 26 1971

SUPREME COURT OF THE UNITED STATES

Circulated:

Recirculated:

No. 70-11

Chevron Oil Company,
Petitioner.
v.
Gaines Ted Huson.

On Writ of Certiorari to the
United States Court of Ap-
peals for the Fifth Circuit.

[December —, 1971]

MR. JUSTICE STEWART delivered the opinion of the
Court.

The respondent, Gaines Ted Huson, suffered a back injury while working on an artificial island drilling rig owned and operated by the petitioner, Chevron Oil Company, and located on the Outer Continental Shelf off the Gulf Coast of Louisiana. The injury occurred in December 1965. Allegedly, it was not until many months later that the injury was discovered to be a serious one. In January 1968 the respondent brought suit for damages against the petitioner in federal district court. The respondent's delay in suing the petitioner ultimately brought his case to this Court.

The issue presented is whether the respondent's action is time-barred and, more particularly, whether state or federal law determines the timeliness of the action. That issue must be resolved under the Outer Continental Shelf Lands Act, 43 U. S. C. § 1311 *et seq.* (hereinafter "Lands Act"), which governs injuries occurring on fixed structures on the Outer Continental Shelf. When this lawsuit was initiated, there was a line of federal court decisions interpreting the Lands Act to make general admiralty law, including the equitable doctrine of laches, applicable to

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Hydrocarbon
& H₂ S
Please join me
for
To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
✓ Mr. Justice Marshall
Mr. Justice Blackmun

From: Stewart, J.

3rd DRAFT

Circulated: _____
Recirculated: NOV 29 1971

SUPREME COURT OF THE UNITED STATES

No. 70-11

Chevron Oil Company, }
Petitioner. } On Writ of Certiorari to the
v. } United States Court of Ap-
Gaines Ted Huson. } peals for the Fifth Circuit.

[December —, 1971]

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

November 30, 1971

Re: No. 70-11 - Chevron Oil Co. v.
Gaines Ted Huson

Dear Potter:

Please join me.

Sincerely,

Byron

Mr. Justice Stewart

Copies to Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 29, 1971

Re: No. 70-11 - Chevron Oil Co. v. Huson

Dear Potter:

Please join me.

Sincerely,


T.M.

Mr. Justice Stewart

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 29, 1971

Re: No. 70-11 - Chevron Oil Co. v. Huson

Dear Potter:

I am glad to join your opinion proposed for
this case.

Sincerely,

H.A.B.

Mr. Justice Stewart

cc: The Conference