

The Burger Court Opinion Writing Database

Victory Carriers, Inc. v. Law

404 U.S. 202 (1971)

Paul J. Wahlbeck, George Washington University

James F. Spriggs, II, Washington University

Forrest Maltzman, George Washington University



9 AM

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

CHAMBERS OF
THE CHIEF JUSTICE

December 3, 1971

Re: No. 70-54 - Victory Carriers v. Law

Dear Byron:

Please join me.

Regards,

WBB

Mr. Justice White

cc: The Conference

Supreme Court of the United States

Memorandum

11-29-71

, 19

Mr. Justice Brennan:

This is the case that Justice
Douglas talked to you about on
Thursday.

FA

Wm. Brennan
6-17-71

Wm. Brennan
WJ's Secretary
The affected party
Dept. went along with

Victor Berman
only -

not co
11-29

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 70-54

Victory Carriers, Inc., et al.,
Petitioners,
v.
Bill Law. } On Writ of Certiorari to
the United States Court
of Appeals for the Fifth
Circuit.

[December —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

Gutierrez v. Waterman Steamship Co., 373 U. S. 206, involved an injury to a longshoreman while he was on the dock unloading the ship. The injury was not inflicted by a defective appliance of the ship. He merely slipped on loose beans spilled on the deck from defective cargo containers belonging to the ship. Here the longshoreman was engaged in a phase of a loading operation; he was on the dock stacking cargo for loading and the appliance causing the injury belonged to the stevedore company.

The Court of Appeals properly concluded that that work was part of the loading process and that therefore the longshoreman was in the service of the ship. That gives pragmatic, realistic meaning to the concept of loading and avoids the narrow, grudging, hypertechnical definition.

Loading is activity that involves work on the ship and on the dock. Longshoremen are both ship-side workers and shore-side workers and move back and forth from deck to dock. At times an individual worker may be using the ship's appliances and a moment later the stevedore's appliance. But the work does not change in character. Respondent was subject to all the risks and hazards of loading the ship; and the humanitarian policy of the admiralty law has been to allow those who so

W. Berman
OC 11/29/71
(a check to
11/29/71
FA memo)

21
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

4th DRAFT

SUPREME COURT OF THE UNITED STATES *as, J.*

11/30/71
No. 70-54

Victory Carriers, Inc., et al., Petitioners, v. Bill Law. } On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit.

[December —, 1971]

MR. JUSTICE DOUGLAS, dissenting.

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The Court of Appeals properly concluded that that work was part of the loading process and that therefore the longshoreman was in the service of the ship. That gives pragmatic, realistic meaning to the concept of loading and avoids the narrow, grudging, hypertechnical definition.

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① / 12
To: The Chief Justice
Mr. Justice Black
Mr. Justice Marshall
Mr. Justice Brennan
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Stewart
Mr. Justice White
Miss Gandy, Clerk
Miss Holmes, Law Clerk

5th DRAFT

From: Douglas, [redacted]

Circulated: [redacted]

No. 70-54

Recirculated: 12-1

Victory Carriers, Inc., et al., On Writ of Certiorari to
Petitioners, } the United States Court
v. } of Appeals for the Fifth
Bill Law. } Circuit.

[December —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

Gutierrez v. Waterman Steamship Co., 373 U. S. 206, involved an injury to a longshoreman while he was on the dock unloading the ship. The injury was not inflicted by a defective appliance of the ship. He merely slipped on loose beans spilled on the dock from defective cargo containers belonging to the ship. Here the longshoreman was engaged in a phase of a loading operation; he was on the dock stacking cargo for loading and the appliance causing the injury belonged to the stevedore company.

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12-78

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

6th DRAFT

SUPREME COURT OF THE UNITED STATES

From: [unclear]
Circulated: [unclear]

No. 70-54

Recirculated: 12-3

Victory Carriers, Inc., et al., } On Writ of Certiorari to
Petitioners. } the United States Court
v. } of Appeals for the Fifth
Bill Law. } Circuit.

[December —, 1971]

MR. JUSTICE DOUGLAS, with whom MR. JUSTICE BRENNAN concurs, dissenting.

Gutierrez v. Waterman Steamship Co., 373 U. S. 206. involved an injury to a longshoreman while he was on the dock unloading the ship. The injury was not inflicted by a defective appliance of the ship. He merely slipped on loose beans spilled on the dock from defective cargo containers belonging to the ship. Here the longshoreman was engaged in a phase of a loading operation; he was on the dock stacking cargo for loading and the appliance causing the injury belonged to the stevedore company.

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Loading is activity that involves work on the ship and on the dock. Longshoremen are both ship-side workers and shore-side workers and move back and forth from deck to dock. At times an individual worker may be using the ship's appliances and a moment later the stevedore's appliance. But the work does not change in character. For example, although prior to his injury Law had normally been involved in loading or unloading,

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2
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR. December 1, 1971

RE: No. 70-54 - Victory Carriers, Inc.
v. Law

Dear Bill:

Please join me in your dissent in
the above.

Sincerely,



Mr. Justice Douglas

cc: The Conference

3
11
Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE POTTER STEWART

November 24, 1971

70-54, Victory Carriers v. Law

Dear Byron,

I am glad to join your opinion for the
Court in this case.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

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Please return
To: The Supreme Court
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

From: White, J. NOV 24 1971

Circulated: _____

Recirculated: _____

No. 70-54

Victory Carriers, Inc., et al., On Writ of Certiorari to
Petitioners. } the United States Court
v. } of Appeals for the Fifth
Bill Law. } Circuit.

[December —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

The question presented here is whether state law or federal maritime law governs the suit of a longshoreman injured on a pier while driving a forklift truck which was moving cargo that would ultimately be loaded aboard ship.

The facts are undisputed. When the accident happened, respondent Bill Law, a longshoreman employed by Gulf Stevedore Corporation in Mobile, Alabama, was on the pier driving a forklift loaded with cargo destined for the SS *Sagamore Hill*, a vessel owned by petitioner Victory Carriers, Inc., which was tied up at the pier. Law had picked up the load on the dock and was transferring it to a point alongside the vessel where it was to be subsequently hoisted aboard by the ship's own gear. The forklift was owned and under the direction of his stevedore employer. As Law proceeded toward the pickup point, the overhead protection rack of the forklift came loose and fell on him. He subsequently brought an action in a federal District Court against the ship and Victory Carriers, Inc., claiming that the unseaworthiness of the vessel and the negligence of

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

2nd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

Recirculated: 12-4-21

No. 70-54

Victory Carriers, Inc., et al., Petitioners,
v. Bill Law. } On Writ of Certiorari to
the United States Court
of Appeals for the Fifth
Circuit.

[December —, 1971]

MR. JUSTICE WHITE delivered the opinion of the Court.

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The facts are undisputed. When the accident happened, respondent Bill Law, a longshoreman employed by Gulf Stevedore Corporation in Mobile, Alabama, was on the pier driving a forklift loaded with cargo destined for the SS *Sagamore Hill*, a vessel owned by petitioner Victory Carriers, Inc., which was tied up at the pier. Law had picked up the load on the dock and was transferring it to a point alongside the vessel where it was to be subsequently hoisted aboard by the ship's own gear. The forklift was owned and under the direction of his stevedore employer. As Law returned toward the pickup point, the overhead protection rack of the forklift came loose and fell on him. He subsequently brought an action in a federal District Court against the ship and Victory Carriers, Inc., claiming that the unseaworthiness

6/10/71
J. White
Chairman
Planned
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

3rd DRAFT

From: White, J.

SUPREME COURT OF THE UNITED STATES

No. 70-54

Recirculated: 12-10-71

Victory Carriers, Inc., et al., On Writ of Certiorari to
Petitioners. } the United States Court
v. } of Appeals for the Fifth
Bill Law. } Circuit.

[December —, 1971]

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The facts are undisputed. When the accident happened, respondent Bill Law, a longshoreman employed by Gulf Stevedore Corporation in Mobile, Alabama, was on the pier driving a forklift loaded with cargo destined for the SS *Sagamore Hill*, a vessel owned by petitioner Victory Carriers, Inc., which was tied up at the pier. Law had picked up the load on the dock and was transferring it to a point alongside the vessel where it was to be subsequently hoisted aboard by the ship's own gear. The forklift was owned and under the direction of his stevedore employer. As Law returned toward the pickup point, the overhead protection rack of the forklift came loose and fell on him. He subsequently brought an action in a federal District Court against the ship and Victory Carriers, Inc., claiming that the unseaworthiness

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Ms. A. 1. 1. fol. 100. rect.

The following notes were held for No. 70-19, start on
paid postage!

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THE 1ST EDITION OF THE TREATISE ON
CIVILIZATIONS, BY A. H. SAYCE, M.A.,
MUD. PROFESSOR OF ARCHAEOLOGY IN THE
UNIVERSITY OF LONDON, 1887.

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

November 29, 1971

Re: No. 70-54 - Victory Carriers, Inc. v. Law

Dear Byron:

Please join me.

Sincerely,


T.M.

Mr. Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 29, 1971

Re: No. 70-54 - Victory Carriers, Inc. v. Law

Dear Byron:

Please join me in your opinion proposed
for this case.

I personally would feel a little more com-
fortable if the last paragraph of the opinion and its
accompanying footnote were eliminated. However, I
am content to leave this to you.

Sincerely,

H.A.B.

Mr. Justice White

cc: The Conference