

# The Burger Court Opinion Writing Database

*Edmonds v. Compagnie Generale  
Transatlantique*

443 U.S. 256 (1979)

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



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

CHAMBERS OF  
THE CHIEF JUSTICE

March 24, 1979

MEMORANDUM TO THE CONFERENCE:

Re: 78-479 Edmonds v, Compagnie Generale Transatlant

In our Conference discussion I expressed my view that the desirable solution to this problem was to have a "bright line" or per se rule that no cause of action would be implied from an Act of Congress silent on the subject. At the same time I expressed the view that this was the strongest case I had seen for an implied cause of action.

I am doing some more work on the subject, and my Conference vote should be treated as tentative only.

I will come to rest next week.

Regards,

*GRB*

*for now  
to change*

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

CHAMBERS OF  
THE CHIEF JUSTICE

June 11, 1979

Re: 78-479 - Edmonds v. Compagnie Gen. Transatlantique

Dear Byron:

I join.

Regards,



Mr. Justice White

Copies to the Conference

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

April 30, 1979

RE: No. 78-479 Edmonds v. Compagnie Generale  
Transatlantique

Dear Byron:

I agree.

Sincerely,

*Bill*

Mr. Justice White

cc: The Conference

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

CHAMBERS OF  
JUSTICE POTTER STEWART

April 27, 1979

Re: 78-479 - Edmonds v. Compagnie Generale  
Transatl

Dear Byron:

I am glad to join your opinion for the  
Court.

Sincerely yours,

P.S.

Mr. Justice White

Copies to the Conference

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackman  
Mr. Justice Powell  
Mr. Justice Rehnquist  
Mr. Justice Stevens

From: Mr. Justice White

Circulated: 4-26-79

Recirculated: \_\_\_\_\_

**1st DRAFT**

**SUPREME COURT OF THE UNITED STATES**

**No. 78-479**

Stanley D. Edmonds, Petitioner, | On Writ of Certiorari to  
v. | the United States Court  
Compagnie Generale | of Appeals for the Fourth  
Transatlantique. | Circuit.

[May —, 1979] W.O

MR. JUSTICE WHITE delivered the opinion of the Court.

On March 3, 1974, the S. S. *Atlantic Cognac*, a container-ship owned by respondent, arrived at the Portsmouth Marine Terminal, Va. Petitioner, a longshoreman, was then employed by the Nacirema Operating Co., a stevedoring concern that the shipowner had engaged to unload cargo from the vessel. The longshoreman was injured in the course of that work, and he received benefits for that injury from his employer under the Longshoremen's and Harbor Workers' Compensation Act. 33 U. S. C. § 901 *et seq.* In addition, the longshoreman brought this negligence action against the shipowner in federal district court.

A jury determined that the longshoreman had suffered total damages of \$100,000, that he was responsible for 10% of the total negligence resulting in his injury, that the stevedore's fault, through a coemployee's negligence, contributed 70%, and that the shipowner was accountable for 20%.<sup>1</sup> Following an established principle of maritime law, the District Court reduced the award to the longshoreman by the 10% attributed to his own negligence.<sup>2</sup> But also in accord-

<sup>1</sup> The District Court set aside a jury verdict for the longshoreman in an earlier trial because of errors in the jury instructions.

<sup>2</sup> The plaintiff's negligence is not an absolute bar to recovery under maritime law, which accepts the concept of comparative negligence of plain-

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
✓Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist  
Mr. Justice Stevens

From: Mr. Justice White

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 2-3, 5, 9, 11-14, 17

Circulated: \_\_\_\_\_

Recirculated: 2 MAY 1979

2nd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 78-479

Stanley D. Edmonds, Petitioner, | On Writ of Certiorari to  
v. | the United States Court  
Compagnie Generale | of Appeals for the Fourth  
Transatlantique. | Circuit.

[May —, 1979]

MR. JUSTICE WHITE delivered the opinion of the Court.

On March 3, 1974, the S. S. *Atlantic Cognac*, a container-ship owned by respondent, arrived at the Portsmouth Marine Terminal, Va. Petitioner, a longshoreman, was then employed by the Nacirema Operating Co., a stevedoring concern that the shipowner had engaged to unload cargo from the vessel. The longshoreman was injured in the course of that work, and he received benefits for that injury from his employer under the Longshoremen's and Harbor Workers' Compensation Act. 33 U. S. C. § 901 *et seq.* In addition, the longshoreman brought this negligence action against the shipowner in federal district court.

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<sup>1</sup> The District Court set aside a jury verdict for the longshoreman in an earlier trial because of errors in the jury instructions.

<sup>2</sup> The plaintiff's negligence is not an absolute bar to recovery under maritime law, which accepts the concept of comparative negligence of plain-

To: The Chief Justice  
Mr. Justice Brennan  
Mr. Justice Stewart  
Mr. Justice Marshall  
Mr. Justice Blackmun  
Mr. Justice Powell  
Mr. Justice Rehnquist  
Mr. Justice Stevens

STYLISTIC CHANGES THROUGHOUT.  
SEE PAGES: 3-4, 12-14

From: Mr. Justice White

Circulated: \_\_\_\_\_

Recirculated: 8 JUN 1979

3rd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 78-479

Stanley D. Edmonds, Petitioner, | On Writ of Certiorari to  
v. | the United States Court  
Compagnie Generale | of Appeals for the Fourth  
Transatlantique. | Circuit.

[June —, 1979]

MR. JUSTICE WHITE delivered the opinion of the Court.

On March 3, 1974, the S. S. *Atlantic Cognac*, a container-ship owned by respondent, arrived at the Portsmouth Marine Terminal, Va. Petitioner, a longshoreman, was then employed by the Nacirema Operating Co., a stevedoring concern that the shipowner had engaged to unload cargo from the vessel. The longshoreman was injured in the course of that work, and he received benefits for that injury from his employer under the Longshoremen's and Harbor Workers' Compensation Act. 33 U. S. C. § 901 *et seq.* In addition, the longshoreman brought this negligence action against the shipowner in federal district court.

A jury determined that the longshoreman had suffered total damages of \$100,000, that he was responsible for 10% of the total negligence resulting in his injury, that the stevedore's fault, through a coemployee's negligence, contributed 70%, and that the shipowner was accountable for 20%.<sup>1</sup> Following an established principle of maritime law, the District Court reduced the award to the longshoreman by the 10% attributed to his own negligence.<sup>2</sup> But also in accord-

<sup>1</sup> The District Court set aside a jury verdict for the longshoreman in an earlier trial because of errors in the jury instructions.

<sup>2</sup> The plaintiff's negligence is not an absolute bar to recovery under maritime law, which accepts the concept of comparative negligence of plain-

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 19, 1979

MEMORANDUM TO THE CONFERENCE

Cases Held for No. 78-479 - Edmonds v. Compagnie  
General Transatlantique

The only case held for Edmonds is No. 78-795 - Empresa Lineas Maritimas Argentinas v. Samuels. On the issue dealt with in Edmonds, the Court of Appeals in Samuels came out as we do in Edmonds. Petitioner also argues that the Court of Appeals misapplied its rule on the vessel's standard of care and that the court erroneously held that the shipowner must notify each longshoreman, and not just the supervisor, of known dangers. The first contention is a matter for the Court of Appeals, and the second does not seem to be a fair reading of the opinion below. I will vote to deny.

Sincerely yours,



CMC

Washington, D. C. 20540

CHAMBERS OF  
JUSTICE BYRON R. WHITE

June 21, 1979

Re: 78-479 - Edmonds v. Compagnie General  
Transatlantique

Dear Chief,

I have no changes to make in response to  
Harry's dissent in the above case. I could be  
ready whenever the others are.

Sincerely yours,



The Chief Justice

Copies to the Conference

cmc

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

June 22, 1979

Re: No. 78-479 - Edmonds v. Compagnie Generale  
Transatlantique

Dear Harry:

Please join me in your dissent.

Sincerely,

T.M.  
T.M.

Mr. Justice Blackmun

cc: The Conference

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

From: Mr. Justice Blackmun

Circulated: 21 JUN 1979

Recirculated: \_\_\_\_\_

No. 78-479 - Edmonds v. Compagnie Generale Transatlantique

Mr. JUSTICE BLACKMUN, dissenting:

The jury in this case found that the shipowner, the stevedore, and the longshoreman were each partially responsible for petitioner Stanley Edmond's injury. A member of the ship's crew instructed Edmonds to remove a jack from the rear wheel of a large cargo container. As Edmonds went behind the container to remove the jack, another longshoreman backed a truck into the container, causing it to roll backwards and pin Edmonds against the bulkhead. The jury concluded that the shipowner, as the employer of the crewman, was 20% responsible for the accident; the stevedore, as the employer of the longshoreman

Mr. Justice Stewart  
Mr. Justice White  
Mr. Justice Marshall  
Mr. Justice Powell  
Mr. Justice Rehnquist  
Mr. Justice Stevens

Printed  
From: Mr. Justice Blackmun

Circulated:

1st DRAFT

Recirculated: 25 ... 1979

## SUPREME COURT OF THE UNITED STATES

No. 78-479

Stanley D. Edmonds, Petitioner, v. Compagnie Generale Transatlantique. } On Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit.

[June --, 1979]

MR. JUSTICE BLACKMUN, with whom MR. JUSTICE MARSHALL and MR. JUSTICE STEVENS join, dissenting.

The jury in this case found that the shipowner, the stevedore, and the longshoreman were each partially responsible for petitioner Stanley Edmond's injury. A member of the ship's crew instructed Edmonds to remove a jack from the rear wheel of a large cargo container. As Edmonds went behind the container to remove the jack, another longshoreman backed a truck into the container, causing it to roll backwards and pin Edmonds against the bulkhead. The jury concluded that the shipowner, as the employer of the crewman, was 20% responsible for the accident; the stevedore, as the employer of the longshoreman driving the truck, was 70% responsible; and Edmonds himself was 10% responsible.

The Court holds that the shipowner, who was 20% negligent, must pay 90% of Edmonds' damages. Edmonds, because of his comparative negligence, must absorb 10% of the damages himself. But the stevedore, who, the jury determined, was 70% at fault, will recoup its statutory compensation payments out of the damages payable to Edmonds, and thus will go scot-free.<sup>1</sup>

<sup>1</sup> As of December 18, 1978, the stevedore's insurance company had paid Edmonds a total of \$49,152 in statutory benefits. Brief of Liberty Mutual Insurance Co. as *amicus curiae* 2. Under the judicially created lien sanctioned by the Court's opinion, *ante*, at 13, the stevedore's insurer will recover this entire sum out of the \$90,000 damages awarded to Edmonds.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

May 1, 1979

78-479 Edmonds v. Compagnie Generale Transatlantique

Dear Byron:

Please show at the end of the next draft of your opinion that I took no part in the consideration or decision of this case.

Sincerely,



Mr. Justice White

lfp/ss

cc: The Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

March 26, 1979

Re: No. 78-479 - Edmonds v. Compagnie Generale  
Transatlantique

Dear Chief:

I know that judges are supposed to ponder, but I fear that I have pondered so much about this case that I have reached the stage where further thought on my part will be of little use to me, and of even less to the Court. I had come into Conference on Wednesday feeling that it was an area of the law with which I was not very familiar, and that while Clement Haynsworth's opinion for the Fourth Circuit probably reached an equitable result, it was not a result which could be very squarely supported by the language of the 1972 Act itself. Following our agreement at the end of Wednesday's Conference to discuss the case further on Friday, I naturally listened with interest to the views of Thurgood, Harry, and John, which were contrary to my own tentative ones.

If there were not a square conflict on this point, I am still sufficiently uneasy about the correct result that I would vote to affirm and either have the case affirmed by an equally divided Court or else set down for reargument at a time when Lewis can participate and no such option will be open to waverers such as me. But the conflict between circuits here must obviously be decided, and so I am willing to cast a highly tentative vote to reverse, which as I count

Friday's tally sheet would make the vote five to three to reverse, if you are willing to assign the case on that basis. I am slightly influenced by the fact that in any given two week calendar of oral arguments heard by an eight man Court, there are bound to be some four to four divisions, some of which will result in reargument to a full Court and some of which will result in affirmance by an equally divided Court. Because of the conflict which I earlier mentioned, I don't see how this case could avoid being set for reargument if I were to vote to affirm; frankly, I would do so if I thought that Lewis had any strong feelings about the merits of the case one way or the other, but this is obviously not a question that I would want to ask him even informally right now. And I do not think it can be fairly said that if re-argued to the full Court, one could predict with any confidence a likelihood that the case would be resolved differently than if I adhere to my present tentative vote to reverse.

I therefore now cast such a vote.

Sincerely,



The Chief Justice

Copies to the Conference

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

May 9, 1979

Re: No. 78-479 - Edmonds v. Compagnie Generale  
Transatlantique

Dear Byron:

Please join me.

Sincerely,



Mr. Justice White

Copies to the Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

May 3, 1979

Re: 78-479 - Edmonds v. Compagnie Generale  
Transatlantique

Dear Byron:

Frankly, I find your opinion persuasive notwithstanding my strong feeling that Judge Haynsworth's position makes a great deal of sense. Before coming to rest, I await to see what may be written in dissent.

Respectfully,



Mr. Justice White

Copies to the Conference

Supreme Court of the United States

Washington, D. C. 20543

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

June 21, 1979

Re: 78-479 - Edmonds v. Compagnie Generale  
Transatlantique

Dear Harry:

Please join me in your dissent.

Respectfully,



Mr. Justice Blackmun

Copies to the Conference