

# The Burger Court Opinion Writing Database

*Vaughn v. Vermilion Corp.*

444 U.S. 206 (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

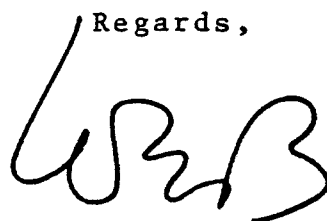
November 20, 1979

Re: 77-1819 - Vaughn v. Vermilion Corp.

Dear Bill:

I join.

Regards,

A handwritten signature in dark ink, appearing to be 'WRB', written over the typed word 'Regards,'.

Mr. Justice Rehnquist

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

CHAMBERS OF  
JUSTICE WM. J. BRENNAN, JR.

November 8, 1979

RE: No. 77-1819 Vaughn v. Vermilion Corp.

Dear Bill:

I shall await the dissent in the above.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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

CHAMBERS OF  
JUSTICE Wm. J. BRENNAN, JR.

November 27, 1979

RE: No. 77-1819 Vaughn v. Vermilion Corporation

Dear Harry:

Please join me in the dissenting opinion you have  
prepared in the above.

Sincerely,

*Bill*

Mr. Justice Blackmun

cc: The Conference

*per  
mail*

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

CHAMBERS OF  
JUSTICE POTTER STEWART

November 7, 1979

Re: 77-1819 - Vaughn v. Vermilion Corporation

Dear Bill:

I am glad to join your proposed per curiam.  
My only serious question is whether this should  
not be a signed opinion.

Sincerely yours,

P.S.  
/

Mr. Justice Rehnquist

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

November 27, 1979

Re: No. 77-1819 - Vaughn v. Vermilion

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Dear Bill,

Please join me.

Sincerely yours,



Mr. Justice Rehnquist

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cmc

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

November 29, 1979

Re: No. 77-1819 - Vaughn v. Vermilion Corp.

Dear Harry:

Please join me in your dissenting opinion.

Sincerely,

*J.M.*

T.M.

Mr. Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

November 6, 1979

Re: No. 77-1819 - Vaughn v. Vermilion Corporation  
No. 78-738 - Kaiser Aetna v. United States

Dear Bill:

In due course I shall try my hand at a dissent for  
these cases. It will be a few days.

Sincerely,



Mr. Justice Rehnquist

cc: The Conference

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To: The Chief Justice  
Mr. Justice Blackmun  
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: 23 NOV 1979

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1819

Norman Vaughn, Freddie Broussard  
and Larry J. Broussard,  
Petitioners,  
v.  
Vermilion Corporation.

On Writ of Certiorari  
to the Court of Ap-  
peal of Louisiana for  
the Third Circuit.

[November —, 1979]

MR. JUSTICE BLACKMUN, dissenting.

Since the canals involved in this case are entirely artificial in their construction, applicability of the federal navigational servitude is a somewhat closer question than in *Kaiser Aetna v. United States*, ante. Nevertheless, for the reasons given in my dissenting opinion in that case, ante, p. —, I would reverse the judgment of the Louisiana Court of Appeal.

There is no question that the canals are navigable in fact, or that they give access to the Intracoastal Canal, a waterway used for interstate navigation and subject to plenary federal control. The canals are currently used for commercial navigation. They are, thus, "navigable waters of the United States."

If the United States had condemned respondent's fast land in order to construct the canals, I would agree that compensation would be required, although the valuation of the land could not include its potential use as a canal. Cf. *United States v. Rands*, 389 U. S. 121 (1967). But the Government did not initiate the construction. Rather, respondent's predecessors in interest voluntarily undertook to transform land into navigable water for purposes of obtaining access to a highway of waterborne commerce. In doing so, they subjected their formerly fast land to the dominant federal interest in navigation and surrendered the right to control access to the canals.

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

November 15, 1979

77-1819-Vaughan-v.-Vermillion

Dear Bill:

Please join me.

Sincerely,

*Levin*

Mr. Justice Rehnquist

lfp/ss

cc: The Conference

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

From: Mr. Justice Rehnquist

Circulated: 5 NOV 1979

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

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 77-1819

Norman Vaughn, Freddie Broussard  
and Larry J. Broussard,  
Petitioners,  
v.  
Vermilion Corporation.

On Writ of Certiorari  
to the Court of Ap-  
peal of Louisiana for  
the Third Circuit.

[November —, 1979]

PER CURIAM.

The legal principles stated today in our opinion in No. 78-738, *Kaiser Aetna v. United States*, control the disposition of this case. Because of its posture here, however, we find it necessary to remand the case to the Court of Appeal of Louisiana. We think a brief statement of the facts and proceedings below will be helpful to an understanding of our disposition.

Respondent Vermilion Corporation leases a substantial amount of acreage, owned by Exxon Company, in the State of Louisiana. The land is traversed by a system of manmade canals, which are approximately 60 feet wide and eight feet deep. The canals are both subject to tidal fluctuations and navigable in fact. They were constructed with private funds, and have been continuously in the control and possession of respondent Vermilion Corporation, Exxon, and their predecessors, for a long period of time.

The canal system enters other naturally navigable waterways, and lies between the Intracoastal Canal on the north and the Gulf of Mexico on the south. The canals are used for fishing and hunting and are also used by Exxon for oil and gas exploration and development activities. Respondent Vermilion subleases portions of the Exxon land to hunters,

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

November 6, 1979

Re: 77-1819 - Vaughn et al. v. Vermilion

Dear Bill:

Please join me.

Respectfully,



Mr. Justice Rehnquist

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