

The Burger Court Opinion Writing Database

*World-Wide Volkswagen Corp. v.
Woodson*

444 U.S. 286 (1980)

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

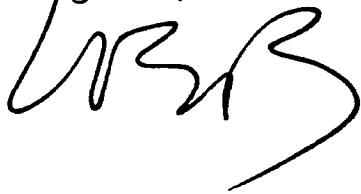
December 17, 1979

Re: 78-1078 - World-Wide Volkswagen Corp. v. Woodson

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 W. J. BRENNAN, JR.

October 9, 1979

MEMORANDUM TO: Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Stevens

RE: No. 78-1078 World-Wide Volkswagen Corporation
v. Woodson
No. 78-952 Rush v. Savchuk

Thurgood, Harry and I are in dissent in Volkswagen, and Byron, John and I are in dissent in Rush. I think these are very close cases and it might be that the authors of the Court opinions may persuade me. For the present, however, I contemplate dissenting and will be happy to undertake the dissents in both.

W.J.B. Jr.

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

CHAMBERS OF
JUSTICE W. J. BRENNAN, JR.

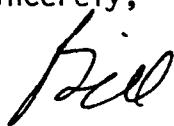
November 19, 1979

RE: No. 78-1078 World-Wide Volkswagen Corporation v.
Charles S. Woodson

Dear Byron:

I'll circulate a dissent in the above in due
course.

Sincerely,



Mr. Justice White

cc: The Conference

S. J. B.

To: The Chief Justice
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 ✓ Mr. Justice Black
 Mr. Justice Clark
 Mr. Justice Harlan
 Mr. Justice Hugo
 Mr. Justice Powell

From: Mr. Justice Brennan

Circulated 18 DEC 1979

1st DRAFT

Recirculated

SUPREME COURT OF THE UNITED STATES

Nos. 78-1078 AND 78-952

World-Wide Volkswagen Corporation et al., Petitioners, 78-1078 v. Charles S. Woodson, District Judge of Creek County, Oklahoma, et al.	On Writ of Certiorari to the Supreme Court of Oklahoma.
Randal Rush et al., Appellants, 78-952 v. Jeffrey D. Savchuk.	On Appeal from the Supreme Court of Minnesota.

[January —, 1980]

MR. JUSTICE BRENNAN, dissenting.

The Court holds that the Due Process Clause of the Fourteenth Amendment bars the States from asserting jurisdiction over the petitioners in these two cases. In each case the Court so decides because it fails to find the "minimum contacts" that have been required since *International Shoe Co. v. Washington*, 326 U. S. 310, 316 (1945). Because I believe that the Court reads *International Shoe* and its progeny too narrowly, and because I believe that the standards enunciated by those cases may already be obsolete as constitutional boundaries, I dissent.

I

The Court's opinions focus tightly on the existence of contacts between the forum and the defendant. In so doing, they accord too little weight to the strength of the forum State's interest in the case and fail to explore whether there would be any actual inconvenience to the defendant. The essential inquiry in locating the constitutional limits on state-court jurisdiction over absent defendants is whether the par-

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

From: Mr. Justice Brennan

STYLISTIC CHANGES

2nd DRAFT

Circulated: _____

Recirculated: 1/3/80

SUPREME COURT OF THE UNITED STATES

Nos. 78-1078 AND 78-952

World-Wide Volkswagen Corporation et al., Petitioners,
78-1078 v. Charles S. Woodson, District
Judge of Creek County,
Oklahoma, et al. } On Writ of Certiorari to the
Supreme Court of Oklahoma.

Randal Rush et al., Appellants,
78-952 v. Jeffrey D. Savchuk. } On Appeal from the Supreme
Court of Minnesota.

[January —, 1980]

MR. JUSTICE BRENNAN, dissenting.

The Court holds that the Due Process Clause of the Fourteenth Amendment bars the States from asserting jurisdiction over the defendants in these two cases. In each case the Court so decides because it fails to find the "minimum contacts" that have been required since *International Shoe Co. v. Washington*, 326 U. S. 310, 316 (1945). Because I believe that the Court reads *International Shoe* and its progeny too narrowly, and because I believe that the standards enunciated by those cases may already be obsolete as constitutional boundaries, I dissent.

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For: The Chief Justice
 Mr. Justice Stewart
 Mr. Justice White
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: Mr. Justice Brennan

Circulated:

Circulated: JAN 11 1980

Page 13

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 78-1078 AND 78-952

World-Wide Volkswagen Corporation et al., Petitioners,
 78-1078 v. Charles S. Woodson, District
 Judge of Creek County,
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 Supreme Court of Oklahoma.

Randal Rush et al., Appellants,
 78-952 v. Jeffrey D. Savchuk. } On Appeal from the Supreme
 Court of Minnesota.

[January —, 1980]

MR. JUSTICE BRENNAN, dissenting.

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

CHAMBERS OF
JUSTICE POTTER STEWART

November 16, 1979

Re: 78-1078 - World-Wide Volkswagen Corp. v. Woodson

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 Breanan
 Mr. Justice Stewart
 Mr. Justice Marshall
 Mr. Justice Blackmun
 Mr. Justice Powell
 Mr. Justice Rehnquist
 Mr. Justice Stevens

From: Mr. Justice White
15 NOV 1979
 Circulated:

Recirculated:

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1078

World-Wide Volkswagen Corporation
 et al., Petitioners,
 v.
 Charles S. Woodson, District Judge of
 Creek County, Oklahoma, et al.

On Writ of Certiorari to the Supreme Court of Oklahoma.

[November —, 1979]

MR. JUSTICE WHITE delivered the opinion of the Court.

The issue before us is whether, consistently with the Due Process Clause of the Fourteenth Amendment, an Oklahoma court may exercise *in personam* jurisdiction over a nonresident automobile retailer and its wholesale distributor in a products liability action, when the defendants' only connection with Oklahoma is the fact that an automobile sold in New York to New York residents became involved in an accident there.

I

Respondents Harry and Kay Robinson purchased a new Audi automobile from petitioner Seaway Volkswagen, Inc. (Seaway) in Massena, N. Y., in 1976. The following year the Robinson family, who resided in New York, left that State for a new home in Arizona. As they passed through the State of Oklahoma, another car struck their Audi in the rear, causing a fire which severely burned Kay Robinson and her two children.¹

The Robinsons² subsequently brought a products liability

¹ The driver of the other automobile does not figure in the present litigation.

² Kay Robinson sued on her own behalf. The two children sued through Harry Robinson as their father and next friend.

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

Circulated: _____

Recirculated: 5 DEC 1979

STYLISTIC CHANGES THROUGHOUT.
 SEE PAGES: 4, 10, 11

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1078

World-Wide Volkswagen Corporation
 et al., Petitioners,
 v.
 Charles S. Woodson, District Judge of
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On Writ of Certiorari to the Supreme Court of Oklahoma.

[November —, 1979]

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The Robinsons² subsequently brought a products liability

¹ The driver of the other automobile does not figure in the present litigation.

² Kay Robinson sued on her own behalf. The two children sued through Harry Robinson as their father and next friend.

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

January 22, 1980

MEMORANDUM TO THE CONFERENCE

Re: Cases held for No. 78-1078 - World-Wide Volkswagen, Inc.
v. Woodson

1. No. 79-517 - Eschman & Walsh, Ltd. v. Mueller & Co.

Petr, a United Kingdom corporation, manufactured a component which was installed into a medical instrument by resp, a corporation with its principal place of business outside Colorado. Suit was brought against resp in Colorado by a Colorado resident for personal injuries allegedly caused by the instrument in that State. Resp filed a third party claim against petr and sought to obtain personal jurisdiction pursuant to Colorado's "long-arm" statute. The Colorado Court of Appeals upheld jurisdiction, finding that petr could have foreseen the use made of the component and that petr sold its goods to resp and other United States corporations. The Supreme Court of Colorado denied review. It is not clear whether petr's goods were sold to Colorado customers or how these goods arrived in Colorado. It is likely that there was jurisdiction but I would prefer to grant and remand for reconsideration in light of World-Wide Volkswagen.

2. No. 79-546 - Home Federal Savings v. Chemical
Realty Co.

Appellant, a Florida corporation, entered into a loan agreement with a North Carolina corporation to finance a construction project in North Carolina. Appellant's officers made several visits to North Carolina both to negotiate the loan and to observe the project's progress. Appellee provided the construction loan with repayment to be made by appellant. When the project shut down, appellee sued appellant in North Carolina state court. The North Carolina Court

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

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

November 29, 1979

Re: No. 78-1078 - World-Wide Volkswagen v. Woodson

Dear Byron:

I shall await the dissent.

Sincerely,



T.M.

Mr. Justice White

cc: The Conference

18 JAN 1980

No. 78-1078 Worldwide Volkswagen v. Woodson

Mr. Justice Marshall, dissenting.

For over thirty years the standard by which to measure the constitutionally permissible reach of state-court jurisdiction has been well established:

"[D]ue process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.'" International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945), quoting Milliken v. Meyer, 311 U.S. 457, 463 (1940).

The corollary, that the Due Process Clause forbids the assertion of jurisdiction over a defendant "with which the state has no contacts, ties, or relations," id. at 319, is equally clear. The concepts of fairness and substantial justice as applied to an evaluation of "the quality and nature of the [defendant's] activity," ibid., are not readily susceptible of further definition, however, and it is not surprising that the constitutional standard is easier to state than to apply.

This is a difficult case, and reasonable minds may differ as to whether respondents have alleged a sufficient "relationship among the defendant[s], the forum, and the litigation," Shaffer v Heitner, 433 U.S. 184, 204 (1977), to satisfy the requirements of International Shoe. I am concerned, however, that the majority has reached its result by

pp. 1, 5

18 JAN 1980

printed
1st / DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 78-1078 AND 78-952

World-Wide Volkswagen Corporation et al., Petitioners, 78-1078 v. Charles S. Woodson, District Judge of Creek County, Oklahoma, et al.	On Writ of Certiorari to the Supreme Court of Oklahoma,
Randal Rush et al., Appellants, 78-952 v. Jeffrey D. Savchuk.	On Appeal from the Supreme Court of Minnesota.

[January —, 1980]
with whom MR. JUSTICE BLACKMAN joins,
MR. JUSTICE MARSHALL dissenting.

For over 30 years the standard by which to measure the constitutionally permissible reach of state-court jurisdiction has been well established:

"[D]ue process requires only that in order to subject a defendant to a judgment in personam, if he be not present within the territory of the forum, he have certain minimum contacts with it such that the maintenance of the suit does not offend 'traditional notions of fair play and substantial justice.' " *International Shoe Co. v. Washington*, 326 U. S. 310, 316 (1945), quoting *Milliken v. Meyer*, 311 U. S. 457, 463 (1940).

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Supreme Court of the United States
Washington, D. C. 20530

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

November 26, 1979

Re: No. 78-1078 - World-Wide Volkswagen Corp. v. Woodson

Dear Byron:

I shall await the dissent.

Sincerely,

H. A. B.

I will await the dissent

Mr. Justice White

cc: The Conference

HA

January 7, 1980

Re: 78-1078 - World-Wide Volkswagen Corp. v. Woodson

Dear Byron:

As you know, I have been waiting for an anticipated dissent from Thurgood in this case. Because of his accident this has been delayed. Rather than wait any longer, I have written myself a few words in dissent. I give you herewith an "advance" copy of my remarks. They have gone to the Printer.

Sincerely,

HAB

Mr. Justice White

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 7, 1980

Re: No. 78-1078 - World-Wide Volkswagen Corp. v. Woodson

Dear Thurgood:

Herewith, for your information, is an "advance" copy of what I propose to file in this case.

Sincerely,



Mr. Justice Marshall

No. 78-1078 - World-Wide Volkswagen Corporation v. Woodson

MR. JUSTICE BLACKMUN, dissenting.

I confess that I am somewhat puzzled why the plaintiffs in this litigation are so insistent that the regional distributor and the retail dealer, the petitioners here, who handled the ill-fated Audi automobile involved in this litigation, be named defendants. It would appear that the manufacturer and the importer, whose subjectability to Oklahoma jurisdiction is not challenged before this Court, ought not to be judgment-proof. It may, of course, ultimately amount to a contest between insurance companies that, once begun, is not easily brought to a termination. Having made this much of an observation, it is not for me to pursue it further here.

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: JAN 8 1980

Re-circulated: _____

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 78-1078

World-Wide Volkswagen Corporation
 et al., Petitioners,

v.

Charles S. Woodson, District Judge of
 Creek County, Oklahoma, et al.

On Writ of Certiorari to the Supreme
 Court of Oklahoma.

[January —, 1980]

MR. JUSTICE BLACKMUN, dissenting.

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For me, a critical factor in the disposition of the litigation is the nature of the instrumentality under consideration. It has been said that we are a Nation on wheels. What we are concerned with here is the automobile and its peripatetic character. One need only examine our national network of interstate highways, or make an appearance on one of them, or observe the variety of license plates present not only on those highways but in any metropolitan area, to realize that any automobile is likely to wander far from its place of licensure or from its place of distribution and retail sale. Miles per gallon on the highway (as well as in the city) and mileage per tank-full are familiar allegations in manufacturers' advertisements today. To expect that any new automobile will

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 18, 1980

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Re: No. 78-1078 - World-Wide Volkswagen Corp. v. Woodson

Dear Thurgood:

Please join me in your dissenting opinion.

Sincerely,

Harry

Mr. Justice Marshall

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

November 16, 1979

78-1078-World-Wide-Volkswagen v. Woodson

Dear Byron:

Please join me.

Sincerely,

Lewis

Mr. Justice White

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

December 5, 1979

Re: No. 78-1078 - World-Wide Volkswagen v. Woodson

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

December 28, 1979

Re: No. 78-1078 - World-Wide Volkswagen Corp. v. Woodson

Dear Byron:

Please join me.

Respectfully,



Mr. Justice White
cc: The Conference