

The Burger Court Opinion Writing Database

Texaco, Inc. v. Short

454 U.S. 516 (1982)

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

I've joined
Byron

CHAMBERS OF
JUSTICE POTTER STEWART

March 3, 1981

101P
Re: No. 80-965 and 80-1080,
Texaco v. Short

Dear Byron,

Please add my name to your dissenting
opinion.

Sincerely yours,

P.S.
/

Justice White

Copies to the Conference

I continue to believe that these statutes are akin to
adverse possession statutes of limitations, and
that they reasonably extinguish the property rights
of those who have ignored them for 20 years.
It is true that there is a conflict ~~in~~ in the state
supreme courts. But if the Court DFWSFQ^s
in this case, that decision has precedential
weight and should give guidance to the
State S. Ct. Thus, my recommendation is DFWSFQ.
I note, however, that you were more troubled by
the issue than I was. You may choose to
join BRW unless I've persuaded you otherwise

Paul C.

To: The Chief Justice
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun
Mr. Justice Powell
Mr. Justice Souter
Mr. Justice Ginsburg
Mr. Justice Breyer

*There is an appeal of these well
is a substantial & direct conflict
among state courts on the validity
of statutes terminating*

without a hearing,

SUPREME COURT OF THE UNITED STATES

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Recirculated: _____

*mineral
rights,
that have
not been
used
for
long
periods
of years.*

TEXACO, INC., ET AL. v. LOUISE F. SHORT ET AL.
and EDEN H. POND, EDNA H. BOBE AND
CONSOLIDATION COAL COMPANY v.
ULYSSES G. WALDEN, JR., ET AL.

ON APPEALS FROM THE SUPREME COURT OF INDIANA
Nos. 80-965 and 80-¹⁰¹⁸~~1068~~. Decided March —, 1981

JUSTICE WHITE, dissenting.

Believing that the failure of owners of oil and mineral deposits to develop these resources was contrary to the public welfare, Indiana enacted the Indiana Mineral Lapse Act in 1971. I. C. 32-5-11 *et seq.* The Act terminates interests in coal, oil, gas and other minerals that have not been used for a period of 20 years. "Use" is defined broadly to include actual production, as well as the demonstration of a continuing economic interest through payment of taxes, rentals or royalties. I. C. 32-5-11-3. In the absence of such use, an owner of a mineral interest can preserve his interest by filing a statement, within the same time period, in the office of the recorder of deeds in the county in which the property is located. I. C. 32-5-11-4. Failure to use or to file within the statutory time period results in the reversion of the mineral interest to the owner of the interest out of which it was carved. I. C. 32-5-11-1. The Act provided a two-year grace period following its effective date during which time owners who did not satisfy the use test could file a claim in order to preserve their interest.

Appellants in these two cases were the owners of mineral interests in Indiana subject to the terms of the Act. In neither case had the interests been used within the past 20 years, nor had the owners filed a statement with the recorder of deeds within the requisite period. Appellants did not contest the fact that under the terms of the Act their mineral

*Q hardly
can be
viewed
as
insubstantial*

*Joni
3/5*

This persuaded me that conflict is important & I join.

Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice White

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 1

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SUPREME COURT OF THE UNITED STATES

TEXACO, INC., ET AL. v. LOUISE F. SHORT ET AL.
and EDEN H. POND, EDNA H. BOBE AND
CONSOLIDATION COAL COMPANY v.
ULYSSES G. WALDEN, JR., ET AL.

ON APPEALS FROM THE SUPREME COURT OF INDIANA

Nos. 80-965 and 80-1018. Decided March —, 1981

JUSTICE WHITE, with whom JUSTICE STEWART joins, dissenting.

Believing that the failure of owners of oil and mineral deposits to develop these resources was contrary to the public welfare, Indiana enacted the Indiana Mineral Lapse Act in 1971. I. C. 32-5-11 *et seq.* The Act terminates interests in coal, oil, gas and other minerals that have not been used for a period of 20 years. "Use" is defined broadly to include actual production, as well as the demonstration of a continuing economic interest through payment of taxes, rentals or royalties. I. C. 32-5-11-3. In the absence of such use, an owner of a mineral interest can preserve his interest by filing a statement, within the same time period, in the office of the recorder of deeds in the county in which the property is located. I. C. 32-5-11-4. Failure to use or to file within the statutory time period results in the reversion of the mineral interest to the owner of the interest out of which it was carved. I. C. 32-5-11-1. The Act provided a two-year grace period following its effective date during which time owners who did not satisfy the use test could file a claim in order to preserve their interest.

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Good summary

Payment of taxes?

What about taxes?

March 5, 1981

No. 80-965 Texaco v. Short

Dear Byron:

Please add my name to your dissenting opinion.

Sincerely,

Mr. Justice White

Copies to the Conference

LFP/lab