

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

CHAMBERS OF
THE CHIEF JUSTICE

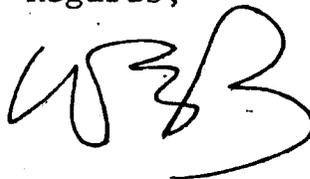
January 7, 1982.

Re: No. 80-965 - Texaco, Inc. v. Short
80-1018 - Pond v. Walden

Dear John:

You may continue to show me as a "join."

Regards,

A handwritten signature in black ink, appearing to be 'J.S.', written in a cursive style.

Justice Stevens

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

October 13, 1981

RE: No. 80-965 - Texaco, Inc. v. Short
No. 80-1018 - Pond v. Walden

Dear Byron, Thurgood and Lewis:

We four are in dissent in the above. I'll
undertake the dissent.

Sincerely,

A handwritten signature in cursive script that reads "Bill".

Justice White

Justice Marshall

Justice Powell

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

December 31, 1981

Re: 80-965 and 80-1018 -
Texaco, Inc. v. Short
and Pond, etc., v. Walden

Dear Bill,

Please add my name to your dissent
in this case.

Sincerely yours,



Justice Brennan

Copies to the Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

December 10, 1981

Re: Nos. 80-965 and 80-1018 - Texaco v. Short and
Pond v. Walden

Dear John:

I await the dissent.

Sincerely,

JM.

T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

January 4, 1982

Re: No. 80-965 - Texaco, Inc. v. Short
No. 80-1018 - Pond etc. v. Walden

Dear Bill:

Please join me in your dissent.

Sincerely,



T.M.

Justice Brennan

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 5, 1982

Re: No. 80-965 - Texaco, Inc. v. Short
No. 80-1018 - Pond v. Walden

Dear John:

Your second draft circulated yesterday alleviated many of my rather minor concerns. Two others remain, however. Our respective clerks have been discussing these, and your clerk has proposed a revision for the last paragraph on page 16 of the opinion and changes or additions to footnotes 27 and 28.

This letter is merely to let you know that the language proposed by your clerk has my approval and that, if the language is utilized, I would gladly join your opinion.

Sincerely,



Justice Stevens

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

✓

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

January 7, 1982

Re: No. 80-965 - Texaco, Inc. v. Short
No. 80-1018 - Pond v. Walden

Dear John:

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

December 14, 1981

80-965 TEXCO, INC. v. SHORT
80-1018 POND, ET AL. v. WALDEN, JR.

Dear John:

As I voted the other way, I will await the dissent.

Sincerely,

Lewis

Justice Stevens

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LFP/vde

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

January 5, 1981

80-965 Texaco, Inc. v. Short

Dear Bill:

Please join me in your dissent.

Sincerely,



Justice Brennan

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

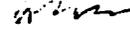
December 15, 1981

Re: 80-965) Texaco v. Short
80-1018) Pond, Bobe and Consolidation Coal Co. v.
Walden

Dear John,

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

LPS
Lawrence H. Garrison
7/11

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

Circulated: DEC 10 '81

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-965 AND 80-1018

80-965 **TEXACO, INC., ET AL., APPELLANTS**
v.
LOUISE F. SHORT ET AL.

80-1018 **EDEN H. POND, EDNA H. BOBE AND CONSOLIDA-**
TION COAL COMPANY, APPELLANTS
v.
ULYSSES G. WALDEN, JR. ET AL.

ON APPEAL FROM THE SUPREME COURT OF INDIANA

[December —, 1981]

JUSTICE STEVENS delivered the opinion of the Court.

In 1971 the Indiana Legislature enacted a statute providing that a severed mineral interest that is not used for a period of 20 years automatically lapses and reverts to the current surface owner of the property, unless the mineral owner files a statement of claim in the local county recorder's office.¹ The Indiana Supreme Court rejected a challenge to the constitutionality of the statute. — Ind. —, 406 N. E. 2d 625 (1980). We noted probable jurisdiction, — U. S. —, and now affirm.

As the Indiana Supreme Court explained, the Mineral Lapse Act "puts an end to interests in coal, oil, gas or other minerals which have not been used for twenty years."² The

¹ The statute is entitled the Dormant Mineral Interests Act, and is more commonly known as the Mineral Lapse Act. Indiana Code §§ 32-5-11-1 thru 32-5-11-8 (1976), as added by Acts 1971, P. L. 423, § 1.

² — Ind., at —, 406 N. E. 2d, at 627.

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Stylistic Changes; pp. 8, 17, 21-22

To: The Chief Justice
Justice Brennan
Justice White
Justice Marshall
Justice Blackmun
Justice Powell
Justice Rehnquist
Justice O'Connor

From: Justice Stevens

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-965 AND 80-1018

80-965 TEXACO, INC., ET AL., APPELLANTS
v.
 LOUISE F. SHORT ET AL.

80-1018 EDEN H. POND, EDNA H. BOBE AND CONSOLIDA-
 TION COAL COMPANY, APPELLANTS
v.
 ULYSSES G. WALDEN, JR., ET AL.

ON APPEAL FROM THE SUPREME COURT OF INDIANA

[January —, 1982]

JUSTICE STEVENS delivered the opinion of the Court.

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²— Ind., at —, 406 N. E. 2d, at 627.

27. 16-17, 19-20

To: The Chief Justice
 Justice Brennan
 Justice White
 Justice Marshall
 Justice Blackmun
 Justice Powell
 Justice Rehnquist
 Justice O'Connor

From Justice Stevens

Circulated: _____

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3rd
~~2nd~~ DRAFT

SUPREME COURT OF THE UNITED STATES

Nos. 80-965 AND 80-1018

80-965
 TEXACO, INC., ET AL., APPELLANTS
 v.
 LOUISE F. SHORT ET AL.

80-1018
 EDEN H. POND, EDNA H. BOBE AND CONSOLIDA-
 TION COAL COMPANY, APPELLANTS
 v.
 ULYSSES G. WALDEN, JR., ET AL.

ON APPEAL FROM THE SUPREME COURT OF INDIANA

[January —, 1982]

JUSTICE STEVENS delivered the opinion of the Court.

In 1971 the Indiana Legislature enacted a statute providing that a severed mineral interest that is not used for a period of 20 years automatically lapses and reverts to the current surface owner of the property, unless the mineral owner files a statement of claim in the local county recorder's office.¹ The Indiana Supreme Court rejected a challenge to the constitutionality of the statute. — Ind. —, 406 N. E. 2d 625 (1980). We noted probable jurisdiction, — U. S. —, and now affirm.

As the Indiana Supreme Court explained, the Mineral Lapse Act "puts an end to interests in coal, oil, gas or other minerals which have not been used for twenty years."² The

¹The statute is entitled the Dormant Mineral Interests Act, and is more commonly known as the Mineral Lapse Act. Indiana Code §§ 32-5-11-1 thru 32-5-11-8 (1976), as added by Acts 1971, P. L. 423, § 1.

²— Ind., at —, 406 N. E. 2d, at 627.

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

January 11, 1982

MEMORANDUM TO THE CONFERENCE

Re: Cases held for Texaco v. Short - 80-965

Two cases have been held for Texaco v. Short: Craig v. Bickel, No. 80-1575 and Larsen v. Van Slooten, No. 80-1624. Both are appeals from the decision of the Michigan Supreme Court in Van Slooten v. Larsen, 410 Mich. 21, 299 N.W.2d 704 (1980), in which the court upheld the constitutionality of Michigan's Dormant Mineral Act, Mich. Comp. Laws § 554.291 et seq.

The Michigan statute is very similar to the Indiana legislation upheld in Texaco. The Michigan statute provides that a severed oil and gas interest will be deemed to be abandoned and will revert to the surface owner if certain action is not taken within a 20-year period. A lapse will not occur if the interest is transferred by a recorded instrument, if the owner of the oil and gas estate takes actual possession of the interest (defined by the statute as obtaining a drilling permit, engaging in the actual production or withdrawal of oil or gas, or using the interest in underground gas storage operations), or if the owner files a statement of claim. The statute included a three-year grace period in which existing interests could be protected by filing a statement of claim. Unlike the Indiana Act, the Michigan statute contains no exception for holders of ten or more interests.

The facts of both cases are similar. In each, the oil and gas estate was created prior to the enactment of the statute, and the mineral interests lapsed after the expiration of the three-year grace period. The mineral owners subsequently executed oil and gas leases covering the mineral estates, and the surface owners brought suit to quiet title to the oil and gas interests.

In light of our decision in Texaco v. Short, I believe that these appeals may be dismissed for want of a substantial federal question.

Respectfully,

John

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

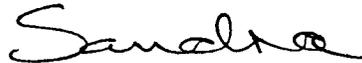
December 12, 1981

No. 80-965 Texaco, Inc. v. Short
No. 80-1018 Pond, Bobe & Consolidation Coal
Co. v. Walden

Dear John,

Please join me in your opinion in the
referenced cases.

Sincerely,



Justice Stevens

Copies to the Conference