

The Burger Court Opinion Writing Database

Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee

456 U.S. 694 (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

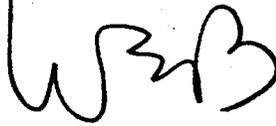
May 12, 1982

Re: 81-440 - Insurance Corp. of Ireland, Ltd. v.
Compagnie des Bauxites de Guinee

Dear Byron:

I join.

Regards,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 4, 1982

RE: No. 81-440 Insurance Corp. of Ireland v. Compagnie
des Bauxites de Guinea

Dear Byron:

I agree.

Sincerely,



Justice White

cc: The Conference

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

From: **Justice White**

29 APR 1982

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-440

INSURANCE CORP. OF IRELAND, LTD. ET AL., PETITIONERS, *v.* COMPAGNIE DES BAUXITES DE GUINEA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

[May —, 1982]

JUSTICE WHITE delivered the opinion of the Court.

Rule 37(b), Federal Rules of Civil Procedure, provides that a District Court may impose sanctions for failure to comply with discovery orders. Included among the available sanctions is:

“An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order.”
Rule 37(b)(2)(A).

The question presented by this case is whether this rule is applicable to facts that form the basis for personal jurisdiction over a defendant. May a District Court, as a sanction for failure to comply with a discovery order directed at establishing jurisdictional facts, proceed on the basis that personal jurisdiction over the recalcitrant party has been established? Petitioners urge that such an application of the Rule would violate Due Process: If a court does not have jurisdiction over a party, then it may not create that jurisdiction by judicial fiat.¹ They contend also that until a court has jurisdiction

¹The petition with which we deal in this case was filed as a cross-petition in response to the petition for certiorari filed in No. 81-290. We granted

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

From: **Justice White**

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-440

INSURANCE CORP. OF IRELAND, LTD. ET AL., PETITIONERS, *v.* COMPAGNIE DES BAUXITES DE GUINEA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 1, 1982

MEMORANDUM TO THE CONFERENCE

Cases held for No. 81-440 - Insurance Corporation
of Ireland, et al. v. Compagnie des Bauxites

1. No. 81-290, Compagnie des Bauxites v. Insurance Corporation of Ireland, et al.

In No. 81-440, the Court considered a cross-petition: This is the original petition. CBG sought review of two aspects of the CA 3 decision: First, its reversal of the DC's holding that it had personal jurisdiction over three of the excess insurers; second, its reversal of the DC's grant of a permanent injunction enjoining the insurers from pursuing a related suit in the British courts.

The first of these issues does not merit further consideration. The three insurers involved had complied with the DC's discovery orders and, therefore, were not properly subject to the Rule 37 sanction. Apart from the sanction, the CA held that the record did not demonstrate sufficient contact with Pennsylvania to justify the exercise of personal jurisdiction pursuant to the Pennsylvania long-arm statute.

The second question, however, is more substantial. Four years after CBG filed its complaint in federal DC, the foreign insurers filed a suit in England seeking rescission of the insurance contract on the grounds that CBG had failed to disclose material facts. CBG moved in federal DC to enjoin the carriers from pursuing the English suit. The DC found as a matter of law that the English action was duplicative, vexatious, harassing, and caused irreparable injury to CBG. It granted the injunction, but was reversed by the CA 3. The CA agreed that a DC has the power to enjoin the parties before it from pursuing an action in a foreign court. It held, however, that even assuming the action to be duplicative, vexatious, and harassing, this was not sufficient ground to justify the "breach of comity among the courts of separate sovereignties."

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

April 30, 1982

Re: No. 81-440 - Insurance Corp. of Ireland v.
Compagnie Des Bauxites De Guinea

Dear Byron:

Please join me.

Sincerely,

T.M.
T.M.

Justice White

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

May 3, 1982

Re: No. 81-440 - Insurance Corp. of Ireland
v. Campagnie Des Bauxites

Dear Byron:

Please join me.

Sincerely,



Justice White

cc: The Conference

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

From: Justice Powell

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-440

INSURANCE CORPORATION OF IRELAND, LTD.
ET AL., PETITIONERS *v.* COMPAGNIE
DES BAUXITES DE GUINEA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE THIRD CIRCUIT

[May —, 1982]

JUSTICE POWELL, concurring in the judgment.

The Court rests today's decision on a constitutional distinction between "subject matter" and "*in personam*" jurisdiction. Under this distinction, subject matter jurisdiction defines an Article III limitation on the power of federal courts. By contrast, the Court characterizes the limits on *in personam* jurisdiction solely in terms of waivable personal rights and notions of "fair play." Having done so, it determines that fundamental questions of judicial power do not arise in this case concerning the personal jurisdiction of a federal district court.

In my view the Court's broadly theoretical decision misapprehends the issues actually presented for decision. Federal courts are courts of limited jurisdiction. Their personal jurisdiction, no less than their subject matter jurisdiction, is subject both to constitutional and to statutory definition. Thus, the requirement of personal jurisdiction also defines a constitutional limitation on judicial power fairly traceable to Article III. Moreover, when applicable limitations on federal jurisdiction are identified, it becomes apparent that the Court's theory could require a sweeping but largely unexplained revision of jurisdictional doctrine. This revision could encompass not only the personal jurisdiction of federal courts

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stylistic changes

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

From: Justice Powell

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Recirculated: MAY 25 1982

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 81-440

INSURANCE CORPORATION OF IRELAND, LTD.
ET AL., PETITIONERS *v.* COMPAGNIE
DES BAUXITES DE GUINEA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE THIRD CIRCUIT

[May —, 1982]

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In my view the Court's broadly theoretical decision misapprehends the issues actually presented for decision. Federal courts are courts of limited jurisdiction. Their personal jurisdiction, no less than their subject matter jurisdiction, is subject both to constitutional and to statutory definition. When the applicable limitations on federal jurisdiction are identified, it becomes apparent that the Court's theory could require a sweeping but largely unexplicated revision of jurisdictional doctrine. This revision could encompass not only the personal jurisdiction of federal courts but "sovereign" limitations on state jurisdiction as identified in *World-Wide Volkswagen Corp. v. Woodson*, 444 U. S. 286, 291-293

Omission

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

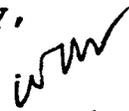
May 4, 1982

Re: No. 81-440 Insurance Corp. of Ireland v.
Compagnie des Bauxites

Dear Byron:

Please join me.

Sincerely,



Justice White

Copies to the Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

April 30, 1982

Re: 81-440 - Insurance Corp. of Ireland
v. Compagnie des Bauxites de Guinea

Dear Byron:

Although I had my doubts about this approach at
Conference, your opinion convinces me that it is sound.
Please join me.

Respectfully,



Justice White

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

May 6, 1982

No. 81-440 Insurance Corp. of Ireland
v. Campagnie Des Bauxites

Dear Byron,

Please join me in your opinion. Like John,
I find your opinion very persuasive.

Sincerely,

Sandra

Justice White

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