

The Burger Court Opinion Writing Database

Jones & Laughlin Steel Corp. v. Pfeifer

462 U.S. 523 (1983)

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

March 11, 1983

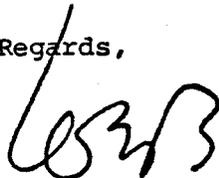
Re: 82-131 - Jones & Laughlin Steel Corp. v. Pfeifer

Dear John:

Since Lewis has now come around to the Second Circuit Rule and you indicate this is the "least objectionable" formula, the assignment can remain with you.

There is no really good way to solve the problem but solve it we must. If Congress doesn't like it, it's up to them.

Regards,



Justice Stevens

Copies to the Conference

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

CHAMBERS OF
THE CHIEF JUSTICE

June 13, 1983

Re: No. 81-131, Jones & Laughlin Steel Corp. v. Pfeifer

Dear John:

I join.

Regards,

A handwritten signature in black ink, appearing to be 'W. Stevens', written over the typed word 'Regards,'.

Justice Stevens

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

CHAMBERS OF
JUSTICE Wm. J. BRENNAN, JR.

May 26, 1983

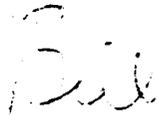
Re: No. 82-131

Jones & Laughlin Steel Corp., etc.
v. Howard E. Pfeifer

Dear John,

I agree.

Sincerely,



Justice Stevens

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

CHAMBERS OF
JUSTICE BYRON R. WHITE

June 9, 1983

Re: 82-131 -

Jones & Laughlin Steel Corp. v. Pfeifer

Dear John,

Please join me.

Sincerely yours,



Justice Stevens

cc: The Conference

cpm

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

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

May 31, 1983

Re: No. 82-131-Jones & Laughlin Steel Corp. v. Pfeifer

Dear John:

Please join me.

Sincerely,



T.M.

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE HARRY A. BLACKMUN

June 1, 1983

Re: No. 82-131 - Jones & Laughlin Steel Corp. v. Pfeifer

Dear John:

Please join me.

Sincerely,



Justice Stevens

cc: The Conference

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

March 10, 1983

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

82-131 Jones & Laughlin Steel v. Pfeifer

Dear Chief:

This refers to John's letter of March 4 that reached my desk after my departure last Friday.

I did vote at Conference for a reversal on the "total offset rule" issue, and expressed a preference to remand without adopting a specific rule pending action by Congress. I am not sufficiently familiar with the subject to have full confidence as to what the rule should be. Yet, there is a great deal of merit to John's view that - with federal courts lacking guidance and following a variety of rules - we should give some specific guidance.

The SG's brief identifies several "real interest rates" approaches that make sense to me. In sum, I could join an opinion that adopted the Second Circuit rule stated in Doca v. Marina Mercante Nicaraguense, S.A., 634 F. 2d 30, 39-40 (1980), cert denied, 451 U.S. 971 (1981).

Sincerely,



The Chief Justice

Copies to the Conference

LFP/vde

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

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.

May 30, 1983

82-131 Jones & Laughlin v. Pfeifer

Dear John:

Please join me.

Sincerely,

Lewis

Justice Stevens

lfp/ss

cc: The Conference

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

CHAMBERS OF
JUSTICE WILLIAM H. REHNQUIST

June 10, 1983

Re: No. 82-131 Jones & Laughlin Steel Corp.
v. Pfeifer

Dear John:

Please join me.

Sincerely,

WHR

Justice Stevens

cc: The Conference

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

March 4, 1983

Re: 82-131 - Jones & Laughlin Steel
v. Pfeifer

Dear Chief:

My conference notes indicate that at the conclusion of the discussion five Members of the Court were agreed that there should be a reversal of the Third Circuit's holding that the total offset rule was proper and a remand without a specification of what rule should be followed. The five who made up the majority for that position were, I believe, The Chief Justice, Justice Blackmun, Justice Powell, Justice Rehnquist, and Justice O'Connor; my notes are unclear as to Byron's final position. In all events, I did not share that view and instead favored the adoption of a firm rule that should be applied until Congress addressed the issue.

At one time or another during the discussion there was support for the Second Circuit rule expressed as a possible alternative by Justices Brennan, White, Marshall, and I believe I could also accept that rule but I do not believe it ever commanded a majority.

My final position was that rather than simply reversing and leaving the issue at large--which is what I thought the Court had decided to do--I would prefer simply to affirm the Third Circuit. In all events, I think I am farther from the majority position than almost anyone else on the Court and therefore am reluctant to undertake the assignment.

Respectfully,



The Chief Justice

Copies to the Conference

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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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-131

JONES & LAUGHLIN STEEL CORPORATION, ETC.,
PETITIONER *v.* HOWARD E. PFEIFER

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

[May —, 1983]

JUSTICE STEVENS delivered the opinion of the Court.

Respondent was injured in the course of his employment as a loading helper on a coal barge. As his employer, petitioner was required to compensate him for his injury under § 4 of the Longshoremen's and Harbor Workers' Compensation Act (the Act). 44 Stat. 1426, 33 U. S. C. § 904. As the owner *pro hac vice* of the barge, petitioner may also be liable for negligence under § 5 of the Act. 86 Stat. 1263, 33 U. S. C. § 905. We granted certiorari to decide whether petitioner may be subject to both forms of liability, and also to consider whether the Court of Appeals correctly upheld the trial court's computation of respondent's damages.

Petitioner owns a fleet of barges that it regularly operates on three navigable rivers in the vicinity of Pittsburgh, Pennsylvania. Respondent was employed for 19 years to aid in loading and unloading those barges at one of petitioner's plants located on the shore of the Monongahela River. On January 13, 1978, while carrying a heavy pump, respondent slipped and fell on snow and ice that petitioner had negligently failed to remove from the gunnels of a barge. His injury made him permanently unable to return to his job with the petitioner, or to perform anything other than light work after July 1, 1979.

In November 1979, respondent brought this action against

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

STYLISTIC CHANGES THROUGHOUT.
SEE PAGES: 7, 13, 14, 29

From: Justice Stevens

Circulated: _____

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2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-131

JONES & LAUGHLIN STEEL CORPORATION, ETC.,
PETITIONER *v.* HOWARD E. PFEIFER

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

[June —, 1983]

JUSTICE STEVENS delivered the opinion of the Court.

Respondent was injured in the course of his employment as a loading helper on a coal barge. As his employer, petitioner was required to compensate him for his injury under § 4 of the Longshoremen's and Harbor Workers' Compensation Act (the Act). 44 Stat. 1426, 33 U. S. C. § 904. As the owner *pro hac vice* of the barge, petitioner may also be liable for negligence under § 5 of the Act. 86 Stat. 1263, 33 U. S. C. § 905. We granted certiorari to decide whether petitioner may be subject to both forms of liability, and also to consider whether the Court of Appeals correctly upheld the trial court's computation of respondent's damages.

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In November 1979, respondent brought this action against

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

pp. 24, 25, 27, 29

From: Justice Stevens

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Recirculated: _____ JUN 10 '83

3rd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-131

JONES & LAUGHLIN STEEL CORPORATION, ETC.,
PETITIONER *v.* HOWARD E. PFEIFER

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

[June —, 1983]

JUSTICE STEVENS delivered the opinion of the Court.

Respondent was injured in the course of his employment as a loading helper on a coal barge. As his employer, petitioner was required to compensate him for his injury under § 4 of the Longshoremen's and Harbor Workers' Compensation Act (the Act). 44 Stat. 1426, 33 U. S. C. § 904. As the owner *pro hac vice* of the barge, petitioner may also be liable for negligence under § 5 of the Act. 86 Stat. 1263, 33 U. S. C. § 905. We granted certiorari to decide whether petitioner may be subject to both forms of liability, and also to consider whether the Court of Appeals correctly upheld the trial court's computation of respondent's damages.

Petitioner owns a fleet of barges that it regularly operates on three navigable rivers in the vicinity of Pittsburgh, Pennsylvania. Respondent was employed for 19 years to aid in loading and unloading those barges at one of petitioner's plants located on the shore of the Monongahela River. On January 13, 1978, while carrying a heavy pump, respondent slipped and fell on snow and ice that petitioner had negligently failed to remove from the gunnels of a barge. His injury made him permanently unable to return to his job with the petitioner, or to perform anything other than light work after July 1, 1979.

In November 1979, respondent brought this action against

HAB

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

CHAMBERS OF
JUSTICE JOHN PAUL STEVENS

June 20, 1983

MEMORANDUM TO THE CONFERENCE

Re: Three Cases Held for No. 82-131, Jones & Laughlin Steel Corp. v. Pfeifer

No. 81-935, Jeffboat, Inc. v. Robertson

The decedent was killed while sandblasting a barge being built by his employer (petitioner). He sued under §5(b) of the LHWCA, alleging that he had been injured due to petr's negligence in its capacity as owner, rather than in its capacity as employer. The DC found resp liable, holding that its provision of "inadequate lighting and failure to supply life rings or alarm bells is sufficient to establish its ... negligence." CA6 affirmed, finding that petr's liability turns on its knowledge of dangerous working conditions and the foreseeability of the harm that those conditions caused. It analyzed the question as whether "the knowledge of defendant as shipbuilder that the employee would be working on the ship at night without adequate lighting or railings to protect him from falling is the kind of knowledge that can also be attributed to defendant as owner. Because Jeffboat is both owner and employer, any knowledge chargeable to it as employer must also be attributed to it as owner. What the employer knew, the owner knew." (emphasis added).

I believe CA6's analysis is inconsistent with our analysis in J&L. Our opinion reiterates that all longshoremen are to be treated the same whether their employer is an independent entity or the shipowner. CA6 appears to be applying a more stringent attribution-of-knowledge rule in the owner-employer context than it would in the case of an independent employer. I will vote to GVR.

Just for

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

CHAMBERS OF
JUSTICE SANDRA DAY O'CONNOR

June 8, 1983

Re: No. 82-131 Jones & Laughlin Steel Corp. v. Pfeifer

Dear John,

Please join me.

Sincerely,

Sandra

Justice Stevens

Copies to the Conference