

# The Burger Court Opinion Writing Database

## *Helicopteros Nacionales de Colombia, S.A v. Hall*

466 U.S. 408 (1984)

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

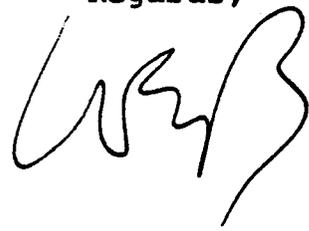
March 1, 1984

Re: 82-1127 - Helicopteros Nacionales De Colombia  
v. Hall

Dear Harry:

I join.

Regards,

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

Justice Blackmun

Copies to the Conference

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

From: Justice Brennan

Circulated: 4/17/84

Recirculated: \_\_\_\_\_

1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1127

HELICOPTEROS NACIONALES DE COLOMBIA, S. A.,  
PETITIONER *v.* ELIZABETH HALL ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

[April —, 1984]

JUSTICE BRENNAN, dissenting.

Decisions applying the Due Process Clause of the Fourteenth Amendment to determine whether a State may constitutionally assert *in personam* jurisdiction over a particular defendant for a particular cause of action most often turn on a weighing of facts. See, *e. g.*, *Kulko v. California Superior Court*, 436 U. S. 84, 92 (1978); *id.*, at 101-102 (BRENNAN, J., dissenting). To a large extent, today's decision follows the usual pattern. Based on essentially undisputed facts, the Court concludes that petitioner Helicol's contacts with the State of Texas were insufficient to allow the Texas state courts constitutionally to assert "general jurisdiction" over all claims filed against this foreign corporation. Although my independent weighing of the facts leads me to a different conclusion, see *infra*, at —, the Court's holding on this issue is neither implausible nor unexpected.

What is troubling about the Court's opinion, however, are the implications that might be drawn from the way in which the Court approaches the constitutional issue it addresses. First, the Court limits its discussion to an assertion of general jurisdiction of the Texas courts because, in its view, the underlying cause of action does "not aris[e] out of or relat[e] to the corporation's activities within the State." *Ante*, at 1. Then, the Court relies on a 1923 decision in *Rosenberg Bros. & Co. v. Curtis Brown Co.*, 260 U. S. 516, without considering whether that case retains any validity after our more re-

p. 2, 6-8

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

From: Justice Brennan

Circulated: \_\_\_\_\_

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2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 82-1127

HELICOPTEROS NACIONALES DE COLOMBIA, S. A.,  
PETITIONER v. ELIZABETH HALL ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

[April —, 1984]

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

CHAMBERS OF  
JUSTICE BYRON R. WHITE

February 13, 1984

RECEIVED  
SUPREME COURT U.S.  
JUSTICE MARSHALL

'84 FEB 13 P3:50

Re: 82-1127 - Helicopters Nacionales v. Hall

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Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE THURGOOD MARSHALL

February 23, 1984

Re: No. 82-1127-Helicopteros Nacionales De  
Colombia, S.A. v. Hall

Dear Harry:

Please join me.

Sincerely,

*T.M.*  
T.M.

Justice Blackmun

cc: The Conference

HAB

January 31, 1984

Dear Bill:

Because I am working on No. 82-1127, Helicopteros Nacionales de Columbia v. Hall, I have had occasion to reread your opinions in No. 82-1401, Calder v. Jones, and No. 82-485, Keeton v. Hustler Magazine. In Calder, on p. 5, Keeton is cited and described as "post." In Keeton, on p. 9, Calder is twice cited, also as "post."

I suppose that one of these should be "ante," for both cannot be "post." It is my impression that unless the Reporter's Office is otherwise instructed, the lower numbered case will appear first in the printed Reports.

Need I ask forgiveness?

Sincerely,

HAB

Justice Rehnquist

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

From: Justice Blackmun

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 82-1127

HELICOPTEROS NACIONALES DE COLUMBIA, S. A.,  
PETITIONER *v.* ELIZABETH HALL ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

[February —, 1984]

JUSTICE BLACKMUN delivered the opinion of the Court.

We granted certiorari in this case, — U. S. — (1983), to decide whether the Supreme Court of Texas correctly ruled that the contacts of a foreign corporation with the State of Texas were sufficient to allow a Texas state court to assert jurisdiction over the corporation in a cause of action not arising out of or related to the corporation's activities within the State.

I

Petitioner Helicopteros Nacionales de Colombia, S.A., (Helicol) is a Colombian corporation with its principal place of business in the city of Bogota in that country. It is engaged in the business of providing helicopter transportation for oil and construction companies in South America. On January 26, 1976, a helicopter owned by Helicol crashed in Peru. Four United States citizens were among those who lost their lives in the accident. Respondents are the survivors and representatives of the four decedents.

At the time of the crash, respondents' decedents were employed by Consorcio, a Peruvian consortium, and were working on a pipeline in Peru. Consorcio is the alter-ego of a joint venture named Williams-Sedco-Horn (WSH).<sup>1</sup> The

<sup>1</sup>The participants in the joint venture were Williams International Sudamericana, Ltd., a Delaware corporation; Sedco Construction Corporation, a Texas corporation; and Horn International, Inc., a Texas corporation.

STYLISTIC CHANGES  
P. 10

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

From: Justice Blackmun

Circulated: \_\_\_\_\_

Recirculated: FEB 3 1984

2nd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 82-1127

HELICOPTEROS NACIONALES DE COLOMBIA, S. A.,  
PETITIONER *v.* ELIZABETH HALL ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

[February —, 1984]

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At the time of the crash, respondents' decedents were employed by Consorcio, a Peruvian consortium, and were working on a pipeline in Peru. Consorcio is the alter-ego of a joint venture named Williams-Sedco-Horn (WSH).<sup>1</sup> The

<sup>1</sup>The participants in the joint venture were Williams International Sudamericana, Ltd., a Delaware corporation; Sedco Construction Corporation, a Texas corporation; and Horn International, Inc., a Texas corporation.

*W.S.H.*

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

February 17, 1984

MEMORANDUM TO THE CONFERENCE

Re: No. 82-1127, Helicopteros Nacionales de Colombia v. Hall

I shall undertake a revision of the draft opinion in this case and shall probably eliminate part III. It will be around the first of the week.

*Harry*

PP. 9-10

HAR

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

From: Justice Blackmun

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SUPREME COURT U.S.  
JUSTICE

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'84 FEB 22 A11 :27

3rd DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 82-1127

HELICOPTEROS NACIONALES DE COLOMBIA, S. A.,  
PETITIONER *v.* ELIZABETH HALL ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

[February —, 1984]

JUSTICE BLACKMUN delivered the opinion of the Court.

We granted certiorari in this case, — U. S. — (1983), to decide whether the Supreme Court of Texas correctly ruled that the contacts of a foreign corporation with the State of Texas were sufficient to allow a Texas state court to assert jurisdiction over the corporation in a cause of action not arising out of or related to the corporation's activities within the State.

I

Petitioner Helicopteros Nacionales de Colombia, S.A., (Helicol) is a Colombian corporation with its principal place of business in the city of Bogota in that country. It is engaged in the business of providing helicopter transportation for oil and construction companies in South America. On January 26, 1976, a helicopter owned by Helicol crashed in Peru. Four United States citizens were among those who lost their lives in the accident. Respondents are the survivors and representatives of the four decedents.

At the time of the crash, respondents' decedents were employed by Consorcio, a Peruvian consortium, and were working on a pipeline in Peru. Consorcio is the alter-ego of a joint venture named Williams-Sedco-Horn (WSH).<sup>1</sup> The

<sup>1</sup>The participants in the joint venture were Williams International Sudamericana, Ltd., a Delaware corporation; Sedco Construction Corporation, a Texas corporation; and Horn International, Inc., a Texas corporation.

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STYLISTIC CHANGES  
+ pp. 3, 6, + 7

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

From: Justice Blackmun

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4rd DRAFT

## SUPREME COURT OF THE UNITED STATES

No. 82-1127

HELICOPTEROS NACIONALES DE COLOMBIA, S. A.,  
PETITIONER *v.* ELIZABETH HALL ET AL.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS

[April —, 1984]

JUSTICE BLACKMUN delivered the opinion of the Court.

We granted certiorari in this case, — U. S. — (1983), to decide whether the Supreme Court of Texas correctly ruled that the contacts of a foreign corporation with the State of Texas were sufficient to allow a Texas state court to assert jurisdiction over the corporation in a cause of action not arising out of or related to the corporation's activities within the State.

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At the time of the crash, respondents' decedents were employed by Consorcio, a Peruvian consortium, and were working on a pipeline in Peru. Consorcio is the alter-ego of a joint venture named Williams-Sedco-Horn (WSH).<sup>1</sup> The

<sup>1</sup>The participants in the joint venture were Williams International Sudamericana, Ltd., a Delaware corporation; Sedco Construction Corporation, a Texas corporation; and Horn International, Inc., a Texas corporation.

716

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

CHAMBERS OF  
JUSTICE HARRY A. BLACKMUN

April 24, 1984

Memorandum to the Conference

Re: No. 82-1127, Helicopteros Nacionales  
de Colombia v. Hall

There is one hold for Helicopteros. it is No. 83-122, Hydrokinetics, Inc. v. Alaska Mechanical, Inc. Your records will show that we also held this case for Keeton.

As it turns out, the minimum-contacts question in this case is left open in Helicopteros--whether purchases and related negotiations in the forum State are a sufficient basis for specific jurisdiction over an action arising out of the purchase transactions. See slip op. 9-10, n. 12. Because we left the question open in Helicopteros, there is no basis for a GVR on the minimum-contacts question. I think that the issue is relatively fact-bound and not important enough to warrant attention from the Court so soon after Helicopteros. I therefore would deny so far as the pure minimum-contacts issue is concerned.

In addition, I see little merit in petitioner's choice-of-law argument. This is not a case where the CA5 found that minimum contacts existed but were counteracted by the choice-of-law provision in the contract. Rather, the CA5 already had found that the defendant's contacts with Texas were insufficient to satisfy minimum-contacts analysis before it ever mentioned the choice-of-law provision. Of course, Bill Rehnquist, as the author of Keeton, may be in a better position to enlighten us on the choice-of-law issue. Absent a recommendation to the contrary from him, however, I shall vote to deny the petition.

H. A. B.

February 6, 1984

82-1127 Helicopteros Nacionales de Colombia v. Hall

Dear Harry:

I have one small reservation about the second draft of your opinion, circulated February 3.

I do not think it is necessary in this case to foreclose entirely the doctrine of "jurisdiction by necessity," as your opinion apparently would do on pages 10-11. The Court left open the viability of the doctrine in at least one form in Shaffer v. Heitner, 433 U.S. 186, 211, n. 37 (1977).

Would it not be sufficient in this case simply to say that the plaintiffs failed to carry their burden of showing that the defendants could not be sued together in a single forum, since all of them may be suable in Colombia or Peru?

This would leave for another case the broader question of whether a court ever might base personal jurisdiction in part on the "necessity" of suing all the defendants together.

Sincerely,

Justice Blackmun

lfp/ss

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

CHAMBERS OF  
JUSTICE LEWIS F. POWELL, JR.

February 22, 1984

82-1127 Helicopteros Nacionales v. Hall

Dear Harry:

Please join me.

Sincerely,

*L. Blackmun*

Justice Blackmun

lfp/ss

cc: The Conference

*Where is the Hall?*

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Justice Powell  
Justice Stevens  
Justice O'Connor

From: **Justice Rehnquist**

Circulated: FEB 17 1984

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1st DRAFT

**SUPREME COURT OF THE UNITED STATES**

No. 82-1127

**HELICOPTEROS NACIONALES DE COLOMBIA, S. A.,  
PETITIONER v. ELIZABETH HALL ET AL.**

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF TEXAS**

[February —, 1984]

JUSTICE REHNQUIST, concurring in part.

Because I disagree with the implications that may flow from part III, I join only parts I and II of the Court's opinion. I see no need for this Court to address the argument advanced by two justices who concurred in the decision below that Texas had jurisdiction by necessity, since no other domestic forum was available to the respondents. The question whether some other state could assert jurisdiction over this lawsuit was neither briefed nor argued; certainly I would not preclude the possibility that one of the states where respondents are domiciled might be able to assert jurisdiction over this lawsuit. I also believe that the question of jurisdiction by necessity is sufficiently complex to reserve the question for another day.

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

CHAMBERS OF  
JUSTICE WILLIAM H. REHNQUIST

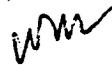
February 23, 1984

Re: No. 82-1127 Helicopteros Nacionales de Columbia  
v. Hall

Dear Harry:

Please join me in your most recent circulation. I withdraw  
my earlier concurrence.

Sincerely,



Justice Blackmun

cc: The Conference

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

CHAMBERS OF  
JUSTICE JOHN PAUL STEVENS

February 22, 1984

Re: 82-1127 - Helicopteros v. Hall

Dear Harry:

Please join me.

Respectfully,



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

February 6, 1984

Re: No. 82-1127 Helicopteros Nacionales de Colombia  
v. Elizabeth Hall et al.

Dear Harry,

Please join me.

Sincerely,



Justice Blackmun

Copies to the Conference

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

May 15, 1984

No. 82-1127 Helicopteros Nacionales de Colombia  
v. Hall

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Dear Harry,

I will go with the majority in deciding whether to charge the cost of printing. I suppose it is a known risk to any petitioner.

Sincerely,

*Sandra*

Justice Blackmun

Copies to the Conference

88 MAY 12 6 32 22

1984  
MAY 12 10 55 AM '84

M

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

CHAMBERS OF  
JUSTICE SANDRA DAY O'CONNOR

8112  
05:59 at 10:48

May 16, 1984

Re: No. 82-1127 Helicopteros Nacionales de Colombia v. Hall

Dear Harry,

My letter yesterday about this case needs another sentence or two. Here it is the respondents who would be charged with the printing costs as the losing parties. If it were the petitioners who had lost it would be an easier decision.

Sincerely,

*Sandra*

Justice Blackmun

Copies to the Conference