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Herb's Welding, Inc. v. Gray

470 U.S. 414 (1985)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University in St. Louis
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Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

March 14, 1984

83-728 - Herb's Welding, Inc. v. Gray

SUPRE
JUST

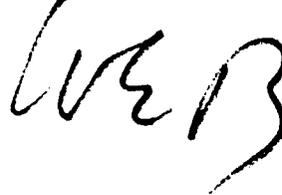
Dear Byron:

'84 MAR 14 P3:39

I am prepared to grant and reverse this case. The Court of Appeals simply ignored the statute which Congress never intended to cover persons not engaged in loading, unloading, repairing or building a vessel.

I may add this idea as a "dissent."

Regards,



Justice White

Copies to the Conference

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

From: Justice White

Circulated: MAR 6 1984

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SUPRE
JUST

1st DRAFT
'84 MAR -6 P 2:28

SUPREME COURT OF THE UNITED STATES

HERB'S WELDING, INC., ET AL. v. ROBERT H. GRAY,
JR., ET AL.

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

No. 83-728. Decided March —, 1984

JUSTICE WHITE, dissenting from denial of certiorari.

Respondent Robert Gray, a welder for petitioner Herb's Welding, helped repair and maintain oil and gas lines and fixed petroleum producing platform structures located in an oil and gas field off the coast of Louisiana. On July 11, 1975, Gray was welding a gas line on a production platform located in Louisiana territorial waters when an explosion occurred. In trying to run from the area, he twisted his knee.

Gray filed a claim for compensation under the Longshoremen and Harbor Workers Compensation Act (LHWCA), 33 U. S. C. §§ 901 *et. seq.* An administrative law judge denied the claim, finding that Gray was not engaged in maritime employment within the meaning of § 2(3) of the LHWCA, 33 U. S. C. § 902(3). The Benefits Review Board reversed, concluding that Gray was entitled to LHWCA benefits under the Outer Continental Shelf Lands Act, 43 U. S. C. § 1333(b), which provides LHWCA benefits for anyone injured as the result of operations conducted on the outer continental shelf.¹

The Court of Appeals for the Fifth Circuit affirmed the Board's order but on a different ground. The court concluded that Gray's injury was covered under the LHWCA itself because both the situs and status requirements of that

¹The Board rejected petitioners' argument that the OCSLA did not apply because the injury occurred in Louisiana waters. Since Gray often worked on platforms located on the outer continental shelf, his employment was integrally related to operations conducted on the outer continental shelf, the Board ruled.

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

March 8, 1984

SUPREME
COURT
JUSTICE

'84 MAR -8 P2:13

83-728 Herb's Welding, Inc. v. Gray

Dear Byron:

Please add my name to your dissent from the denial of certiorari in this case.

Sincerely,

Lewis

Justice White

Copies to the Conference

LFP/vde

CHAMBERS OF
JUSTICE LEWIS F. POWELL, JR.