

SUPREME COURT OF VERMONT

State v. Atlantic Richfield Company

2016 VT 22 (2016) · No. 2015-204 · Decided February 12, 2016

SUMMARY

The Vermont Supreme Court affirmed the denial of Total Petrochemicals & Refining USA, Inc.’s motion to dismiss for lack of personal jurisdiction. The court held that a manufacturer or supplier that places fungible products into a national distribution system with the expectation that they will reach Vermont may be subject to specific personal jurisdiction under the stream-of-commerce doctrine. The case arose from Vermont’s claims that MTBE-containing gasoline contaminated the state’s surface water and groundwater.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Reiber, C.J.; Dooley, J.; Skoglund, J.; Robinson, J.; Eaton, J.
JURISDICTION	Vermont
DECIDED	February 12, 2016
DOCKET	2015-204
DISPOSITION	affirmed
PROCEDURAL POSTURE	Interlocutory appeal from the superior court's denial of defendant's motion to dismiss for lack of personal jurisdiction.
STANDARD OF REVIEW	The Supreme Court reviewed the trial court's legal analysis concerning personal jurisdiction nondeferentially and plenary. Because the trial court ruled on affidavits alone, the State needed only to make a prima facie showing of jurisdiction, with properly supported factual proffers accepted as true and no fact-finding at that stage.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential.
PARTIES	Total Petrochemicals & Refining USA, Inc. v. State of Vermont

TOPICS

- personal jurisdiction
- civil procedure
- due process
- environmental law
- nuisance

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Vermont could exercise specific personal jurisdiction over TPRI under the Due Process Clause based on TPRI's placement of MTBE and MTBE-containing gasoline into a national distribution system that regularly and foreseeably brought the products into Vermont.
2. Whether TPRI's contacts with Vermont were attributable only to unilateral conduct by third parties and therefore insufficient for personal jurisdiction under *J. McIntyre Machinery, Ltd. v. Nicastro* and *Walden v. Fiore*.
3. Whether exercising personal jurisdiction over TPRI would violate traditional notions of fair play and substantial justice.

HOLDINGS

1. A state may exercise specific personal jurisdiction over a defendant that purposefully places fungible products into a national distribution system with the expectation that the products will reach and be purchased by consumers in the forum state, when the litigation arises from injuries allegedly caused by those products.
2. *J. McIntyre Machinery, Ltd. v. Nicastro* and *Walden v. Fiore* did not eliminate or materially alter the existing stream-of-commerce doctrine and did not preclude jurisdiction based on a defendant's own purposeful conduct in a nationwide distribution system.
3. TPRI failed to present a compelling case that exercising jurisdiction in Vermont would be unreasonable after the State established purposeful minimum contacts.

KEY QUOTATIONS

“The forum State does not exceed its powers under the Due Process Clause if it asserts personal jurisdiction over a corporation that delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State.” (at 7)

“The State’s complaint and accompanying affidavit are sufficient for the superior court to exercise specific personal jurisdiction over TPRI.” (at 13)

“We uphold the superior court’s exercise of personal jurisdiction over TPRI based upon the company’s own conduct and contacts with Vermont via the nationwide gasoline distribution system—not the conduct or contacts of independent third parties.” (at 14)

FACTUAL BACKGROUND

The State alleged that TPRI manufactured MTBE, blended or supplied MTBE-containing gasoline, and placed those fungible products into national distribution systems that reached Vermont. The State's expert explained that gasoline was commingled in pipelines and distribution centers, including a New Jersey distribution point serving New England, making it impossible to trace any particular gallon but reasonable to conclude that suppliers to the East Coast system would supply Vermont over time. TPRI denied maintaining a Vermont office, employees,

registration, or direct distribution contracts, but its activities allegedly included blending MTBE gasoline in New Jersey, shipping MTBE gasoline from Texas into the Colonial Pipeline, and selling MTBE to national gasoline marketers.

PROCEDURAL HISTORY

The State of Vermont sued TPRI and twenty-eight other petroleum and chemical companies, alleging that their manufacture, distribution, and sale of MTBE or MTBE-containing gasoline contaminated Vermont waters. TPRI moved to dismiss for lack of personal jurisdiction. The Superior Court, Civil Division, Washington Unit, denied the motion and later denied reconsideration, concluding that TPRI had sufficient contacts with Vermont through the national gasoline-distribution system. The Vermont Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Godino v. Cleanthes, 163 Vt. 237, 239, 656 A.2d 991, 992 (1995)
- Schwartz v. Frankenhoff, 169 Vt. 287, 295, 733 A.2d 74, 81 (1999)
- Fox v. Fox, 2014 VT 100, ¶ 9, 197 Vt. 466, 106 A.3d 919
- N. Aircraft, Inc. v. Reed, 154 Vt. 36, 40-42, 572 A.2d 1382, 1385-86 (1990)
- World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286, 291-98 (1980)
- International Shoe Co. v. State of Washington, International Shoe Co. v. Washington, 326 U.S. 310, 316 (1945)
- Burger King Corp. v. Rudzewicz, Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472-77 (1985)
- Asahi Metal Industry Co. v. Superior Court of California, 480 U.S. 102, 105, 112-18 (1987)
- J. McIntyre Machinery, Ltd. v. Nicastro, 564 U.S. 873, 131 S. Ct. 2780 (2011)
- Walden v. Fiore, Walden v. Fiore, 571 U.S. 277, 134 S. Ct. 1115 (2014)
- Hedges v. W. Auto Supply Co., 161 Vt. 614, 614-15, 640 A.2d 536, 537 (1994)
- Pasquale v. Genovese, 136 Vt. 417, 421, 392 A.2d 395, 398 (1978) (mem.)
- AFTG-TG, LLC v. Nuvoton Tech. Corp., 689 F.3d 1358, 1362-63 (Fed. Cir. 2012)
- Ainsworth v. Moffett Engineering, Ltd., 716 F.3d 174, 175 (5th Cir. 2013)
- In re Chinese-Manufactured Drywall Products Liability Litigation, 753 F.3d 521, 541 (5th Cir. 2014)
- In re Methyl Tertiary Butyl Ether Products Liability Litigation, 399 F. Supp. 2d 325, 332-33 (S.D.N.Y. 2005)
- In re Methyl Tertiary Butyl Ether Products Liability Litigation, 2005 WL 106936, at *7-9 (S.D.N.Y. Jan. 18, 2005)
- In re Methyl Tertiary Butyl Ether Products Liability Litigation, 2014 WL 1778984, at *3-4 (S.D.N.Y. May 5, 2014)
- Metropolitan Life Insurance Co. v. Robertson-Ceco Corp., 84 F.3d 560, 575 (2d Cir. 1996)

