

Removing the Home Court Advantage: How the Supreme Court's Decision in *Chevron USA, Inc. v. Plaquemines Parish* Expands the Scope of Federal Officer Removal

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Earlier this term, a unanimous Supreme Court held that Chevron could invoke federal officer removal under 28 U.S.C. § 1442(a)(1) to remove environmental litigation that certain Louisiana parishes had filed in Louisiana state court. *Chevron USA Inc. v. Plaquemines Parish*, No. 24-813, at 2 (U.S. Apr. 17, 2026). The decision is significant primarily because it expands the circumstances under which persons acting under federal officers can remove cases to federal court. But it is also notable for how it lays bare a clear distinction in how certain members of the Court approach the task of statutory interpretation.

Start with the merits. In 2013, Plaquemines Parish and other parishes filed 42 state-court suits against oil and gas companies for allegedly violating Louisiana's State and Coastal Resources Management Act, La. Rev. Stat. Ann. § 49:214.21 *et seq.* *Id.* at 5. Enacted in 1978, the Act requires persons using Louisiana's coastal zone to obtain a permit unless the use was lawfully commenced or established prior to the permitting program taking effect in 1980. *Id.* The parishes alleged that the oil and gas companies had failed to obtain required permits, including because certain pre-1980 uses had been illegally commenced and not eligible for the permitting exemption. *Id.* Among other things, the parishes argued that the oil and gas companies' operations during the 1940s were conducted in "bad faith" and failed to protect the "marshland from contamination and excessive land losses" by using earthen pits instead of steel tanks; using vertical-drilling methods instead of allegedly less harmful alternatives; and primarily using canals instead of roads for transportation. *Id.*

Several defendants, including Chevron, invoked federal officer removal under 28 U.S.C. § 1442(a)(1) to remove cases against them to federal court. *Id.* at 5-6. They argued that their operations in Louisiana's coastal zone during the 1940s supported the production of crude oil for refining into high-octane aviation gasoline under wartime contracts with the United States. *Id.* at 6. The Petroleum Administration for War (P.A.W.) oversaw the entire oil industry from 1941 to 1945 and, pursuant to a directive to increase avgas production, contracted with dozens of avgas refineries, including one of Chevron's predecessors, to meet military requirements. *Id.* at 3-4. The P.A.W. knew that refineries needed crude oil to produce avgas and adjusted the price of avgas based on the cost of obtaining crude oil. *Id.* at 4. The P.A.W. also allocated crude oil to specific refineries to maximize output and required production methods, such as vertical drilling, that resulted in higher crude oil production. *Id.* at 4. Chevron accordingly contended that the parishes' suits targeted acts related to its performance of federal duties.

Before 2011, the federal officer removal statute authorized removal of state-court suits against federal officers or their agents "for any act under color of such office." 28 U.S.C. § 1442(a)(1) (2006 ed.). The Supreme Court had interpreted that language as requiring a causal nexus between the conduct at issue and the alleged federal authority. *Id.* at 8 n.3. In 2011, however, Congress amended the federal officer removal statute to allow removal of state-court suits against federal officers or their agents "for *or relating to* any act under color of such office." 28 U.S.C. § 1442(a)(1) (emphasis added). The federal district court and Fifth Circuit nevertheless both rejected Chevron's arguments for removal. The Fifth Circuit acknowledged that the parishes were targeting wartime crude oil production, but it held that the claims did not relate to the performance of the avgas refining contracts because those contracts did not specify how crude oil was to be acquired. *Id.* at 6.

The Supreme Court unanimously reversed. Writing for the Court, Justice Clarence Thomas looked to the ordinary meaning of the phrase "relating to" as encompassing even an indirect connection, albeit one that is more than "tenuous, remote, or peripheral." *Id.* at 7-8. Justice Thomas considered the crude oil production challenged by the

parishes to fit comfortably within the concept of a suit “relating to” Chevron’s performance of federal contracts for avgas refining. *Id.* at 9. Crude oil was an essential feedstock for avgas, and much of the crude oil that Chevron produced in the Louisiana coastal zone was used for avgas refining. *Id.* Moreover, the actions that the parishes alleged gave rise to liability were in service of wartime directives. Vertical-drilling methods maximized production, transportation by canal saved the time, materials, and manpower that would have been needed to build roads, and earthen pits satisfied P.A.W.’s directive to preserve steel. *Id.* at 9-10. Justice Thomas, *contra* to the Fifth Circuit, found it of no moment that the wartime contracts did not specify how Chevron was to obtain crude oil. He wrote that conduct can relate to federal duties even without the federal duties “specifically invit[ing]” that conduct. *Id.* at 10-11. He likewise rejected the Fifth Circuit’s conclusion that P.A.W.’s allocation of crude oil severed any relationship between production and refining, holding that acts can relate to their consequences despite the involvement of an intermediary in the chain of causation. *Id.* at 11.

Now to the doctrinal distinction. Justice Thomas took a clear textualist approach. He referenced the Court’s prior interpretation of the federal officer removal statute only in a footnote, implying that Congress’s subsequent amendment to the statute had made that interpretation irrelevant. *Id.* at 8 n.3. His analysis omits any discussion of Congressional intent and focuses solely on the ordinary meaning of the phrase “relating to” that Congress added to the federal officer removal statute in 2011.

Justice Ketanji Brown Jackson, by contrast, took an unapologetically holistic approach in concurrence. Starting from the premise that the Court should determine Congressional intent, she concluded that Congress did not intend for its 2011 amendment to change the causal-nexus requirement for federal officer removal. *Id.* at 2 (Jackson, J., concurring). Looking at legislative history, she determined that Congress was concerned with circumstances where federal officers were subjected to pre-suit discovery proceedings under state law. *Id.* at 3 (Jackson, J., concurring). The then-operative statutory language did not clearly allow removal in those circumstances because the pre-suit discovery proceedings were not targeting the federal officer “for” any act under color of office. Congress addressed that ambiguity in its 2011 amendments by providing that federal officers could remove “any proceeding” in which “a judicial order, including a subpoena for testimony or documents, is sought or issued.” The addition of the phrase “relating to” was simply a conforming amendment to make the rest of the statute consistent with the substantive changes. *Id.* at 4-5 (Jackson, J., concurring). In Justice Jackson’s view, this legislative history answered the interpretative question: rather than effecting a substantive change in the law, as Justice Thomas impliedly found, it was a minor change that left the causal-nexus requirement unaltered. *Id.* at 5 (Jackson, J., concurring).

Justice Jackson, of course, reached the same result as her colleagues: Chevron can remove the litigation to federal court. But she did so by applying the causal-nexus requirement, holding that the United States’ wartime demand for avgas was a but-for cause of Chevron’s production of crude oil from the Louisiana coastal zone. *Id.* at 6-7 (Jackson, J., concurring). Her different analytical approach thus had a material interpretive effect.

Lastly consider the significance. The Court’s decision opens more cases to removal under the federal officer statute by relaxing the causation requirement. At the same time, however, Justice Thomas notably identified climate litigation proceeding on false-advertising theories as lacking even the indirect connection permitted under the Court’s new test. *Id.* at 9. The true consequences of the Court’s decision will be determined in future proceedings in the lower court.

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