07-219 EXXON SHIPPING CO. V. BAKER

DECISION BELOW: 490 F3d 1066

LOWER COURT CASE NUMBER: 04-35183

QUESTION PRESENTED:

An Alaska federal jury awarded $5 billion in punitive damages against Exxon under federal maritime law for the accidental grounding of the tanker Exxon Valdez and the resulting oil spill. The award did not punish for harm to the environment, which other proceedings had fully redressed, but only for lost income and similar economic harm to commercial fishermen and other private parties. Applying the Due Process Clause, the Ninth Circuit reduced the award to $2.5 billion—still 123 times the compensatory damages awarded and five times what the court found was the total, fully compensated loss to all private economic interests. The questions presented are:

1. May punitive damages be imposed under maritime law against a shipowner (as the Ninth Circuit held, contrary to decisions of the First, Fifth, Sixth, and Seventh Circuits) for the conduct of a ship's master at sea, absent a finding that the owner directed, countenanced, or participated in that conduct, and even when the conduct was contrary to policies established and enforced by the owner?
2. When Congress has specified the criminal and civil penalties for maritime conduct in a controlling statute, here the Clean Water Act, but has not provided for punitive damages, may judge-made federal maritime law (as the Ninth Circuit held, contrary to decisions of the First, Second, Fifth, and Sixth Circuits) expand the penalties Congress provided by adding a punitive damages remedy?
3. Is this $2.5 billion punitive damages award, which is larger than the total of all punitive damages awards affirmed by all federal appellate courts in our history, within the limits allowed by (1) federal maritime law or (2) if maritime law could permit such an award, constitutional due process?

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO QUESTIONS 1, 2, AND 3(1) PRESENTED BY THE PETITION. JUSTICE ALITO TOOK NO PART.

CERT. GRANTED 10/29/2007