



FLEX CASE 1.J

Burnham v. Superior Court

Supreme Court of the United States
495 U.S. 604 (1990)

JUSTICE SCALIA announced the judgment of the Court and delivered an opinion in which THE CHIEF JUSTICE and JUSTICE KENNEDY join, and in which JUSTICE WHITE joins with respect to Parts I, II-A, II-B, and II-C.

The question presented is whether the Due Process Clause of the Fourteenth Amendment denies California courts jurisdiction over a nonresident, who was personally served with process while temporarily in that State, in a suit unrelated to his activities in the State.

Take Note

Justice Scalia's opinion carries the approval of only three other Justices, making it merely a plurality opinion rather than a majority opinion. What does that mean for the precedential effect of the opinion?

I

Petitioner Dennis Burnham married Francie Burnham in 1976 in West Virginia. In 1977 the couple moved to New Jersey, where their two children were born. In July 1987 the Burnhams decided to separate. They agreed that Mrs. Burnham, who intended to move to California, would take custody of the children. Shortly before Mrs. Burnham departed for California that same month, she and petitioner agreed that she would file for divorce on grounds of “irreconcilable differences.”

In October 1987, petitioner filed for divorce in New Jersey state court on grounds of “desertion.” Petitioner did not, however, obtain an issuance of summons against his wife and did not attempt to serve her with process. Mrs. Burnham, after unsuccessfully demanding that petitioner adhere to their prior agreement to submit to an “irreconcilable differences” divorce, brought suit for divorce in California state court * * * .

In late January, petitioner visited southern California on business, after which he went north to visit his children [during which time] petitioner was served with a California court summons and a copy of Mrs. Burnham's divorce petition. He then returned to New Jersey.

Later that year, petitioner made a special appearance in the California Superior Court, moving to quash the service of process on the ground that the court lacked personal jurisdiction over him because his only contacts with California were a few short visits to the State for the purposes of conducting business and visiting his children. The Superior Court denied the motion, and the California Court of Appeal denied mandamus relief, rejecting petitioner's contention that the Due Process

Non constat
ex parte in hoc
jus civile
a posteriori

It's Latin to Me

Mandamus is a Latin term meaning “we command” and refers to a writ issued by a superior court compelling a lower court or official to act (or refrain from acting) in a certain way.

Clause prohibited California courts from asserting jurisdiction over him because he lacked “minimum contacts” with the State. The court held it to be “a valid jurisdictional predicate for *in personam* jurisdiction” that the “defendant [was] present in the forum state and personally served with process.” We granted certiorari.

II.A

* * * To determine whether the assertion of personal jurisdiction is consistent with due process, we have long relied on the principles traditionally followed by American courts in marking out the territorial limits of each State's authority. That criterion was first announced in *Pennoyer v. Neff*, 95 U.S. 714, 722 (1878), in which we stated that due process “mean[s] a course of legal proceedings according to those rules and principles which have been established in our systems of jurisprudence for the protection and enforcement of private rights,” including the “well-established principles of public law respecting the jurisdiction of an independent State over persons and property.” In what has become the classic expression of the criterion, we said in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945), that a state court's assertion of personal jurisdiction satisfies the Due Process Clause if it does not violate “‘traditional notions of fair play and substantial justice.’” Since *International Shoe*, we have only been called upon to decide whether these “traditional notions” permit States to exercise jurisdiction over absent defendants in a manner that deviates from the rules of jurisdiction applied in the 19th century. We have held such deviations permissible, but only with respect to suits arising out of the absent defendant's contacts with the State. The question we must decide today is whether due process requires a similar connection between the litigation and the defendant's contacts with the State in cases where the defendant is physically present in the State at the time process is served upon him.

B

Among the most firmly established principles of personal jurisdiction in American tradition is that the courts of a State have jurisdiction over nonresidents who are physically present in the State. The view developed early that each State had the

power to hale before its courts any individual who could be found within its borders, and that once having acquired jurisdiction over such a person by properly serving him with process, the State could retain jurisdiction to enter judgment against him, no matter how fleeting his visit. That view had antecedents in English common-law practice, which sometimes allowed “transitory” actions, arising out of events outside the country, to be maintained against seemingly nonresident defendants who were present in England. * * *

Decisions in the courts of many States in the 19th and early 20th centuries held that personal service upon a physically present defendant sufficed to confer jurisdiction, without regard to whether the defendant was only briefly in the State or whether the cause of action was related to his activities there. * * * Most States, moreover, had statutes or common-law rules that exempted from service of process individuals who were brought into the forum by force or fraud or who were there as a party or witness in unrelated judicial proceedings. These exceptions obviously rested

upon the premise that service of process conferred jurisdiction. * * * [A]s far as we have been able to determine, not one American case from the period (or, for that matter, not one American case until 1978) held, or even suggested, that in-state personal service on an individual was insufficient to confer personal jurisdiction. * * *

This American jurisdictional practice is, moreover, not merely old; it is continuing. It remains the practice of, not only a substantial number of the States, but as far as we are aware all the States and the Federal Government * * *. We do not know of a single state or federal statute, or a single judicial decision resting upon state law, that has abandoned in-state service as a basis of jurisdiction. Many recent cases reaffirm it.

C

Despite this formidable body of precedent, petitioner contends, in reliance on our decisions applying the *International Shoe* standard, that in the absence of “continuous and systematic” contacts with the forum, a nonresident defendant can be subjected to judgment only as to matters that arise out of or relate to his contacts with the forum. This argument rests on a thorough misunderstanding of our cases.

Take Note



Justice Scalia here discusses traditional exceptions to the rule that permits jurisdiction based on in-state personal service: immunity for parties and witnesses in unrelated litigation and immunity for those induced into the forum through fraud. These exceptions generally remain valid today. See *N. Light Tech., Inc. v. N. Lights Club*, 236 F.3d 57, 62 (1st Cir. 2001); 4A C. Wright, A. Miller & A. Steinman, *Fed. Prac. & Proc.* §§ 1076–1081 (4th ed. 2015).

The view of most courts in the 19th century was that a court simply could not exercise *in personam* jurisdiction over a nonresident who had not been personally served with process in the forum. *Pennoyer v. Neff*, while renowned for its statement of the principle that the Fourteenth Amendment prohibits such an exercise of jurisdiction, in fact set that forth only as dictum and decided the case (which involved a judgment rendered more than two years before the Fourteenth Amendment's ratification) under "well-established principles of public law." Those principles, embodied in the Due Process Clause, required * * * that when proceedings "involv[e] merely a determination of the personal liability of the defendant, he must be brought within [the court's] jurisdiction by service of process within the State, or his voluntary appearance." * * *

Later years, however, saw the weakening of the *Pennoyer* rule. In the late 19th and early 20th centuries, changes in the technology of transportation and communication, and the tremendous growth of interstate business activity, led to an "inevitable relaxation of the strict limits on state jurisdiction" over nonresident individuals and corporations. States required, for example, that nonresident corporations appoint an in-state agent upon whom process could be served as a condition of transacting business within their borders, and provided in-state "substituted service" for nonresident motorists who caused injury in the State and left before personal service could be accomplished, *see, e.g., Kane v. New Jersey*, 242 U.S. 160 (1916); *Hess v. Pawloski*, 274 U.S. 352 (1927). We initially upheld these laws under the Due Process Clause on grounds that they complied with *Pennoyer's* rigid requirement of either "consent," or "presence." As many observed, however, the consent and presence were purely fictional. Our opinion in *International Shoe* cast those fictions aside and made explicit the underlying basis of these decisions: Due process does not necessarily require the States to adhere to the unbending territorial limits on jurisdiction set forth in *Pennoyer*. The validity of assertion of jurisdiction over a nonconsenting defendant who is not present in the forum depends upon whether "the quality and nature of [his] activity" in relation to the forum renders such jurisdiction consistent with " 'traditional notions of fair play and substantial justice.' " Subsequent cases have derived from the *International Shoe* standard the general rule that a State may dispense with in-forum personal service on nonresident defendants in suits arising out of their activities in the State. * * *

Nothing in *International Shoe* or the cases that have followed it, however, offers support for the very different proposition petitioner seeks to establish today: that a defendant's presence in the forum is not only unnecessary to validate novel, non-traditional assertions of jurisdiction, but is itself no longer sufficient to establish jurisdiction. That proposition is unfaithful to both elementary logic and the foundations of our due process jurisprudence. The distinction between what is needed to support novel procedures and what is needed to sustain traditional ones is fundamental * * * . * * * The short of the matter is that jurisdiction based on physical

presence alone constitutes due process because it is one of the continuing traditions of our legal system that define the due process standard of “traditional notions of fair play and substantial justice.” That standard was developed by analogy to “physical presence,” and it would be perverse to say it could now be turned against that touchstone of jurisdiction.

D

Petitioner’s strongest argument, though we ultimately reject it, relies upon our decision in *Shaffer v. Heitner*, 433 U.S. 186 (1977). * * *

It goes too far to say, as petitioner contends, that *Shaffer* compels the conclusion that a State lacks jurisdiction over an individual unless the litigation arises out of his activities in the State. *Shaffer*, like *International Shoe*, involved jurisdiction over an absent defendant, and it stands for nothing more than the proposition that when the “minimum contact” that is a substitute for physical presence consists of property ownership it must, like other minimum contacts, be related to the litigation. Petitioner wrenches out of its context our statement in *Shaffer* that “all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe* and its progeny.” When read together with the two sentences that preceded it, the meaning of this statement becomes clear:

“The fiction that an assertion of jurisdiction over property is anything but an assertion of jurisdiction over the owner of the property supports an ancient form without substantial modern justification. Its continued acceptance would serve only to allow state-court jurisdiction that is fundamentally unfair to the defendant.

“We therefore conclude that all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe* and its progeny.” (emphasis added).

Shaffer was saying, in other words, not that all bases for the assertion of *in personam* jurisdiction (including, presumably, in-state service) must be treated alike and subjected to the “minimum contacts” analysis of *International Shoe*; but rather that *quasi in rem* jurisdiction, that fictional “ancient form,” and *in personam* jurisdiction, are really one and the same and must be treated alike—leading to the conclusion that *quasi in rem* jurisdiction, i.e., that form of *in personam* jurisdiction based upon a “property ownership” contact and by definition unaccompanied by personal, in-state service, must satisfy the litigation-relatedness requirement of *International Shoe*. The logic of *Shaffer*’s holding—which places all suits against absent nonresidents on the same constitutional footing, regardless of whether a separate Latin label is attached to one particular basis of contact—does not compel the conclusion that

physically present defendants must be treated identically to absent ones. As we have demonstrated at length, our tradition has treated the two classes of defendants quite differently, and it is unreasonable to read *Shaffer* as casually obliterating that distinction. *International Shoe* confined its “minimum contacts” requirement to situations in which the defendant “be not present within the territory of the forum,” and nothing in *Shaffer* expands that requirement beyond that.

It is fair to say, however, that while our holding today does not contradict *Shaffer*, our basic approach to the due process question is different. We have conducted no independent inquiry into the desirability or fairness of the prevailing in-state service rule, leaving that judgment to the legislatures that are free to amend it; for our purposes, its validation is its pedigree, as the phrase “traditional notions of fair play and substantial justice” makes clear. *Shaffer* did conduct such an independent inquiry, asserting that “‘traditional notions of fair play and substantial justice’ can be as readily offended by the perpetuation of ancient forms that are no longer justified as by the adoption of new procedures that are inconsistent with the basic values of our constitutional heritage.” Perhaps that assertion can be sustained when the “perpetuation of ancient forms” is engaged in by only a very small minority of the States. Where, however, as in the present case, a jurisdictional principle is both firmly approved by tradition and still favored, it is impossible to imagine what standard we could appeal to for the judgment that it is “no longer justified.” While in no way receding from or casting doubt upon the holding of *Shaffer* or any other case, we reaffirm today our time-honored approach. For new procedures, hitherto unknown, the Due Process Clause requires analysis to determine whether “traditional notions of fair play and substantial justice” have been offended. But a doctrine of personal jurisdiction that dates back to the adoption of the Fourteenth Amendment and is still generally observed unquestionably meets that standard.

III

A few words in response to Justice BRENNAN’s opinion concurring in the judgment: It insists that we apply “contemporary notions of due process” to determine the constitutionality of California’s assertion of jurisdiction. But our analysis today comports with that prescription, at least if we give it the only sense allowed by our precedents. The “contemporary notions of due process” applicable to personal jurisdiction are the enduring “traditional notions of fair play and substantial justice” established as the test by *International Shoe*. By its very language, that test is satisfied if a state court adheres to jurisdictional rules that are generally applied and have always been applied in the United States.

But the concurrence’s proposed standard of “contemporary notions of due process” requires more: It measures state-court jurisdiction not only against traditional doctrines in this country, including current state-court practice, but also against each Justice’s subjective assessment of what is fair and just. Authority for

that seductive standard is not to be found in any of our personal jurisdiction cases. It is, indeed, an outright break with the test of “traditional notions of fair play and substantial justice,” which would have to be reformulated “our notions of fair play and substantial justice.”

The subjectivity, and hence inadequacy, of this approach becomes apparent when the concurrence tries to explain why the assertion of jurisdiction in the present case meets its standard of continuing-American-tradition-plus-innate-fairness. Justice BRENNAN lists the “benefits” Mr. Burnham derived from the State of California—the fact that, during the few days he was there, “[h]is health and safety [were] guaranteed by the State’s police, fire, and emergency medical services; he [was] free to travel on the State’s roads and waterways; he likely enjoy[ed] the fruits of the State’s economy.” Three days’ worth of these benefits strike us as powerfully inadequate to establish, as an abstract matter, that it is “fair” for California to decree the ownership of all Mr. Burnham’s worldly goods acquired during the 10 years of his marriage, and the custody over his children. * * * Even less persuasive are the other “fairness” factors alluded to by Justice BRENNAN. * * *

There is, we must acknowledge, one factor mentioned by Justice BRENNAN that both relates distinctively to the assertion of jurisdiction on the basis of personal in-state service and is fully persuasive—namely, the fact that a defendant voluntarily present in a particular State has a “reasonable expectatio[n]” that he is subject to suit there. By formulating it as a “reasonable expectation” Justice BRENNAN makes that seem like a “fairness” factor; but in reality, of course, it is just tradition masquerading as “fairness.” The only reason for charging Mr. Burnham with the reasonable expectation of being subject to suit is that the States of the Union assert adjudicatory jurisdiction over the person, and have always asserted adjudicatory jurisdiction over the person, by serving him with process during his temporary physical presence in their territory. That continuing tradition, which anyone entering California should have known about, renders it “fair” for Mr. Burnham, who voluntarily entered California, to be sued there for divorce—at least “fair” in the limited sense that he has no one but himself to blame. Justice BRENNAN’s long journey is a circular one, leaving him, at the end of the day, in complete reliance upon the very factor he sought to avoid: The existence of a continuing tradition is not enough, fairness also must be considered; fairness exists here because there is a continuing tradition.

While Justice BRENNAN’s concurrence is unwilling to confess that the Justices of this Court can possibly be bound by a continuing American tradition that a particular procedure is fair, neither is it willing to embrace the logical consequences of that refusal—or even to be clear about what consequences (logical or otherwise) it does embrace. Justice BRENNAN says that “[f]or these reasons [i.e., because of the reasonableness factors enumerated above], as a rule the exercise of personal jurisdiction over a defendant based on his voluntary presence in the forum will satisfy the requirements of due process.” The use of the word “rule” conveys the reassuring

feeling that he is establishing a principle of law one can rely upon—but of course he is not. Since Justice BRENNAN's only criterion of constitutionality is “fairness,” the phrase “as a rule” represents nothing more than his estimation that, usually, all the elements of “fairness” he discusses in the present case will exist. But what if they do not? Suppose, for example, that a defendant in Mr. Burnham's situation enjoys not three days' worth of California's “benefits,” but 15 minutes' worth. Or suppose we remove one of those “benefits”—“enjoy[ment of] the fruits of the State's economy”—by positing that Mr. Burnham had not come to California on business, but only to visit his children. * * * [D]espite the fact that he manages to work the word “rule” into his formulation, Justice BRENNAN's approach does not establish a rule of law at all, but only a “totality of the circumstances” test, guaranteeing what traditional territorial rules of jurisdiction were designed precisely to avoid: uncertainty and litigation over the preliminary issue of the forum's competence. It may be that those evils, necessarily accompanying a freestanding “reasonableness” inquiry, must be accepted at the margins, when we evaluate nontraditional forms of jurisdiction newly adopted by the States. But that is no reason for injecting them into the core of our American practice, exposing to such a “reasonableness” inquiry the ground of jurisdiction that has hitherto been considered the very baseline of reasonableness, physical presence.

The difference between us and Justice BRENNAN has nothing to do with whether “further progress [is] to be made” in the “evolution of our legal system.” It has to do with whether changes are to be adopted as progressive by the American people or decreed as progressive by the Justices of this Court. Nothing we say today prevents individual States from limiting or entirely abandoning the in-state-service basis of jurisdiction. And nothing prevents an overwhelming majority of them from doing so, with the consequence that the “traditional notions of fairness” that this Court applies may change. But the States have overwhelmingly declined to adopt such limitation or abandonment, evidently not considering it to be progress. The question is whether, armed with no authority other than individual Justices' perceptions of fairness that conflict with both past and current practice, this Court can compel the States to make such a change on the ground that “due process” requires it. We hold that it cannot.

* * *

Because the Due Process Clause does not prohibit the California courts from exercising jurisdiction over petitioner based on the fact of in-state service of process, the judgment is

Affirmed.

JUSTICE WHITE, concurring in part and concurring in the judgment.

I join Parts I, II-A, II-B, and II-C of JUSTICE SCALIA's opinion and concur in the judgment of affirmance. The rule allowing jurisdiction to be obtained over a non-resident by personal service in the forum State, without more, has been and is so widely accepted throughout this country that I could not possibly strike it down, either on its face or as applied in this case, on the ground that it denies due process of law guaranteed by the Fourteenth Amendment. * * *

JUSTICE BRENNAN, with whom JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE O'CONNOR join, concurring in the judgment.

I agree with Justice Scalia that the Due Process Clause of the Fourteenth Amendment generally permits a state court to exercise jurisdiction over a defendant if he is served with process while voluntarily present in the forum State. I do not perceive the need, however, to decide that a jurisdictional rule that “ ‘has been immemorially the actual law of the land,’ ” automatically comports with due process simply by virtue of its “pedigree.” Although I agree that history is an important factor in establishing whether a jurisdictional rule satisfies due process requirements, I cannot agree that it is the only factor such that all traditional rules of jurisdiction are, ipso facto, forever constitutional. Unlike Justice SCALIA, I would undertake an “independent inquiry into the . . . fairness of the prevailing in-state service rule.” I therefore concur only in the judgment.

I

I believe that the approach adopted by Justice SCALIA's opinion today—reliance solely on historical pedigree—is foreclosed by our decisions in *International Shoe Co. v. Washington*, 326 U.S. 310 (1945), and *Shaffer v. Heitner*, 433 U.S. 186 (1977). In *International Shoe*, we held that a state court's assertion of personal jurisdiction does not violate the Due Process Clause if it is consistent with “ ‘traditional notions of fair play and substantial justice.’ ” In *Shaffer*, we stated that “all assertions of state-court jurisdiction must be evaluated according to the standards set forth in *International Shoe* and its progeny.” The critical insight of *Shaffer* is that all rules of jurisdiction, even ancient ones, must satisfy contemporary notions of due process. No longer were we content to limit our jurisdictional analysis to pronouncements that “[t]he foundation of jurisdiction is physical power,” and that “every State possesses exclusive jurisdiction and sovereignty over persons and property within its territory.” *Pennoyer v. Neff*, 95 U.S. 714, 722 (1878). While acknowledging that “history must be considered as supporting the proposition that jurisdiction based solely on the presence of property satisfie[d] the demands of due process,” we found that this factor could not be “decisive.” We recognized that “ ‘[t]raditional notions of fair play and substantial justice’ can be as readily offended by the perpetuation of ancient forms that are no longer justified as by the adoption of new procedures

that are inconsistent with the basic values of our constitutional heritage.” I agree with this approach and continue to believe that “the minimum-contacts analysis developed in *International Shoe* . . . represents a far more sensible construct for the exercise of state-court jurisdiction than the patchwork of legal and factual fictions that has been generated from the decision in *Pennoyer v. Neff*.”

While our holding in *Shaffer* may have been limited to *quasi in rem* jurisdiction, our mode of analysis was not. Indeed, that we were willing in *Shaffer* to examine anew the appropriateness of the *quasi in rem* rule—until that time dutifully accepted by American courts for at least a century—demonstrates that we did not believe that the “pedigree” of a jurisdictional practice was dispositive in deciding whether it was consistent with due process. * * * If we could discard an “ancient form without substantial modern justification” in *Shaffer*, we can do so again. * * *

II

Tradition, though alone not dispositive, is of course relevant to the question whether the rule of transient jurisdiction is consistent with due process.⁷ Tradition is salient not in the sense that practices of the past are automatically reasonable today; indeed, under such a standard, the legitimacy of transient jurisdiction would be called into question because the rule’s historical “pedigree” is a matter of intense debate. The rule was a stranger to the common law and was rather weakly implanted in American jurisprudence “at the crucial time for present purposes: 1868, when the Fourteenth Amendment was adopted.” For much of the 19th century, American courts did not uniformly recognize the concept of transient jurisdiction, and it appears that the transient rule did not receive wide currency until well after our decision in *Pennoyer v. Neff*.

Rather, I find the historical background relevant because, however murky the jurisprudential origins of transient jurisdiction, the fact that American courts have announced the rule for perhaps a century * * * provides a defendant voluntarily present in a particular State today “clear notice that [he] is subject to suit” in the forum. * * * The transient rule is consistent with reasonable expectations and is entitled to a strong presumption that it comports with due process. “If I visit another State, . . . I knowingly assume some risk that the State will exercise its power over my property or my person while there. My contact with the State, though minimal, gives rise to predictable risks.” Thus, proposed revisions to the *Restatement (Second) of Conflict of Laws* § 28, provide that “[a] state has power to exercise judicial jurisdiction over an individual who is present within its territory unless the individual’s relationship to the state is so attenuated as to make the exercise of such jurisdiction unreasonable.”

⁷ I do not propose that the “contemporary notions of due process” to be applied are no more than “each Justice’s subjective assessment of what is fair and just.” Rather, the inquiry is guided by our decisions beginning with *International Shoe Co. v. Washington*, 326 U.S. 310 (1945), and the specific factors that we have developed to ascertain whether a jurisdictional rule comports with “traditional notions of fair play and substantial justice.”

By visiting the forum State, a transient defendant actually “avail[s]” himself, of significant benefits provided by the State. His health and safety are guaranteed by the State’s police, fire, and emergency medical services; he is free to travel on the State’s roads and waterways; he likely enjoys the fruits of the State’s economy as well. Moreover, the Privileges and Immunities Clause of Article IV prevents a state government from discriminating against a transient defendant by denying him the protections of its law or the right of access to its courts. Subject only to the doctrine of *forum non conveniens*, an out-of-state plaintiff may use state courts in all circumstances in which those courts would be available to state citizens. Without transient jurisdiction, an asymmetry would arise: A transient would have the full benefit of the power of the forum State’s courts as a plaintiff while retaining immunity from their authority as a defendant.

The potential burdens on a transient defendant are slight. “[M]odern transportation and communications have made it much less burdensome for a party sued to defend himself” in a State outside his place of residence. That the defendant has already journeyed at least once before to the forum—as evidenced by the fact that he was served with process there—is an indication that suit in the forum likely would not be prohibitively inconvenient. Finally, any burdens that do arise can be ameliorated by a variety of procedural devices. For these reasons, as a rule the exercise of personal jurisdiction over a defendant based on his voluntary presence in the forum will satisfy the requirements of due process.* * *

In this case, it is undisputed that petitioner was served with process while voluntarily and knowingly in the State of California. I therefore concur in the judgment.

JUSTICE STEVENS, concurring in the judgment.

As I explained in my separate writing, I did not join the Court’s opinion in *Shaffer v. Heitner*, 433 U.S. 186 (1977), because I was concerned by its unnecessarily broad reach. The same concern prevents me from joining either Justice SCALIA’s or Justice BRENNAN’s opinion in this case. For me, it is sufficient to note that the historical evidence and consensus identified by Justice SCALIA, the considerations of fairness identified by Justice BRENNAN, and the common sense displayed by Justice WHITE, all combine to demonstrate that this is, indeed, a very easy case.* Accordingly, I agree that the judgment should be *affirmed*.

* Perhaps the adage about hard cases making bad law should be revised to cover easy cases. [Footnote by Justice Stevens]



It’s Latin to Me

Forum non conveniens is Latin for “an unsuitable forum” and refers to the doctrine under which a court dismisses a case because the case would more conveniently be tried in another forum in a separate judicial system. We will be studying this doctrine in [Chapter 4](#).

