
BP p.l.c. v. Mayor and City Council of Baltimore, No. 19-1189

Introduction: Today, the Supreme Court held in a 7-1 decision that a court of appeals can review the entirety of a district court's order remanding a case to state court when the defendant relied on the federal officer removal statute, 28 U.S.C. § 1442, as one of the grounds for removing the case to federal court.

Background: Baltimore sued various oil companies in state court, seeking to hold them responsible for the City's costs of responding to global warming. The companies removed the case to federal court, relying on the federal officer removal statute, 28 U.S.C. § 1442, as well as other grounds for removal. The district court rejected all of the companies' arguments for removal and remanded the case to state court. Although a remand order ordinarily is not reviewable on appeal, 28 U.S.C. § 1447(d) permits review when the removal was based on the federal officer removal statute. The Fourth Circuit affirmed the district court's holding on the federal officer removal statute and held it lacked jurisdiction to review the other asserted grounds for removal.

Issue: Whether, when a remand order addresses both the federal officer removal statute as well as other grounds for removal, a court of appeals may review the entire remand order, or only the part of the order addressing the federal officer removal statute.

Court's Holding: In an opinion written by Justice Gorsuch, the Supreme Court held that 28 U.S.C. § 1447(d) permits appellate review of an entire remand order if a defendant relied in part on the federal officer removal statute. The Court rejected the City's argument that it would be inefficient to broaden the scope of appellate review of remand orders, observing that that policy argument could not overcome the plain text of the statute, and explaining that full appellate review may actually expedite some cases. The Court also rejected the City's argument that its holding would encourage defendants to make frivolous federal officer removal arguments, noting that courts have tools to sanction frivolous arguments. The Court declined the companies' invitation to review the merits of their other grounds of removal—including the companies' argument that state law nuisance claims alleging injury based on interstate emissions raise a federal question under 28 U.S.C. § 1331—leaving those to the Fourth Circuit on remand. Justice Sotomayor dissented. Justice Alito was recused.

Read the opinion [here](#).