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*Venezuela v. Helmerich & Payne Int'l Drilling Co.*, No. 15-423

Although foreign sovereigns are generally immune from defending themselves in U.S. federal and state courts, their immunity is subject to certain exceptions. Under the expropriation exception, foreign sovereigns are subject to jurisdiction in cases involving rights in property taken in violation of international law. Today, the Supreme Court considered how district courts should decide whether a case properly invokes the expropriation exception. In an 8-0 decision authored by Justice Breyer, the Court held that U.S. courts can maintain jurisdiction to consider the merits of a case under the expropriation exception only if they find that the property in which the plaintiff claims to hold rights was actually “property taken in violation of international law.” It is not sufficient for parties merely to make allegations that would suffice to satisfy the ordinary motion to dismiss standard. To determine whether the right at issue is a property right and whether there was a violation of international law, a court is permitted to take evidence and resolve factual disputes, but the court should resolve such disputes as near to the outset of the case as is reasonably possible.