



Peeler v. South Carolina Helicopters, Inc.,
S.C. 1975.

Supreme Court of South Carolina.
William B. PEELER, Plaintiff,
v.

SOUTH CAROLINA HELICOPTERS, INC., et al.,
Defendants,
of whom South Carolina Helicopters, Inc., is, Re-
spondent,
and R. J. Enstrom Corporation is, Appellant.
No. 19945.

Jan. 16, 1975.

Action was brought for injuries arising from crash of helicopter in South Carolina while being operated by South Carolina owner which moved to join helicopter manufacturer, a foreign corporation, as a defendant and to seek indemnity against manufacturer in event of recovery by injured passenger. The Common Pleas Court of Richland County, John Grimbball, J., denied motion of manufacturer to quash service upon it and the manufacturer appealed. The Supreme Court, Littlejohn, J., held that the manufacturer which among other things made promotional trips to South Carolina and which repaired the helicopter after a prior accident and certified it to South Carolina owner as airworthy, had sufficient contacts with state to make it amenable to process in state without violating due process.

Affirmed.

Bussey, J., filed an opinion concurring in the result and in which Lawis, J., and Ness, Acting Associate Judge, concurred.

West Headnotes

[1] Appeal and Error 30 1008.1(1)

30 Appeal and Error
30XVI Review

30XVI(I) Questions of Fact, Verdicts, and Findings

30XVI(I)3 Findings of Court

30k1008 Conclusiveness in General

30k1008.1 In General

30k1008.1(1) k. In General.

Most Cited Cases

Appeal and Error 30 1010.2

30 Appeal and Error

30XVI Review

30XVI(I) Questions of Fact, Verdicts, and Findings

30XVI(I)3 Findings of Court

30k1010 Sufficiency of Evidence in

Support

30k1010.2 k. Total Failure of

Proof. Most Cited Cases

Finding of lower court that defendant was transacting business in South Carolina to the extent necessary to subject it to courts of this state is binding on Supreme Court unless finding is without support in evidence or is manifestly influenced or controlled by error of law. (Per Littlejohn, J., with one Justice concurring and three Justices concurring in the result.)

[2] Corporations 101 665(1)

101 Corporations

101XVI Foreign Corporations

101k663 Actions by or Against

101k665 Jurisdiction

101k665(1) k. Facts and Circum-

stances Conferring Jurisdiction. Most Cited Cases

Matters considered in determining whether foreign corporation has sufficient contacts in state to confer jurisdiction over it are: duration of corporate activity in state, character of corporate acts, circumstances of corporate acts and inconvenience of parties in conferring or refusing to confer jurisdiction over nonresident corporation. (Per Littlejohn, J., with one Justice concurring and three Justices

concurring in the result.)

[3] Constitutional Law 92 ↪ 3965(4)

92 Constitutional Law

92XXVII Due Process

92XXVII(E) Civil Actions and Proceedings

92k3961 Jurisdiction and Venue

92k3965 Particular Parties or Circumstances

92k3965(4) k. Manufacture, Distribution, and Sale. **Most Cited Cases**

(Formerly 92k305(6))

Foreign corporate manufacturer of helicopters, which had no offices, bank accounts or employees in South Carolina but which made five or six promotional visits in South Carolina prior to crash of its helicopter which it repaired after previous accident and then certified it as airworthy to South Carolina corporate owner and which sent a representative to South Carolina to inspect the wrecked helicopter and crash site, had sufficient contacts with South Carolina to be amenable to service of process in cross-action by South Carolina helicopter owner sued for injuries arising out of crash without violating due process. (Per Littlejohn, J., with one Justice concurring and three Justices concurring in the result.)

****344 *488** Nexsen, Pruet, Jacobs & Pollard, Columbia, for appellant.

***489** Whaley, McCutchen & Blanton, Columbia, for respondent.

LITTLEJOHN, Justice:

We are called upon to determine whether the defendant-appellant R. J. Enstrom Corporation, ****345** a corporation chartered under the laws of the State of Michigan, and not domesticated in South Carolina, is subject to the jurisdiction of the South Carolina courts such that it may be sued in this State.

The question, as taken from appellant's brief, is as follows: 'Did Appellant (Enstrom) have sufficient contacts with the State of South Carolina to sustain service of process upon it herein without offending

'traditional notions of fair play and substantial justice'?'

The lower court held that Enstrom was subject to the jurisdiction of our courts. Enstrom has appealed, alleging error.

***490 PRIOR LITIGATION**

Initially, plaintiff (and his wife) commenced an action against Enstrom in the United States District Court in South Carolina to recover damages allegedly sustained in the crash of a helicopter. Jurisdiction was contested by Enstrom and the District Court quashed service and dismissed the suit on the ground that Enstrom did 'not have the minimum contacts necessary to warrant this (Federal) Court in extending its jurisdiction in the present case.' South Carolina Helicopters, Inc., a defendant in this case, was not a party to the United States District Court action.

THE PRESENT LITIGATION

Thereafter, plaintiff commenced this action against the defendant South Carolina Helicopters, Inc. (from which company the helicopter was purchased by the plaintiff) and against Marlin Rockwell Corporation, a Division of T.R.W., Inc., the manufacturer of parts alleged to be defective. Recovery is sought on the theory of negligence, breach of warranty, and strict liability.

Helicopters, Inc., after answering, moved to join Enstrom as a defendant and to amend its answer to include a cross-action seeking indemnity against Enstrom in the event of recovery by the plaintiff.

Enstrom appeared specially for the purpose of contesting the jurisdiction of the state courts as to its person, and filed a motion to quash service upon it and to dismiss it from the action on the ground that it 'is neither subject to the jurisdiction of the Court nor amenable to service of process emanating from this State.'


The motion was heard before the Honorable John Grimball, Resident Circuit Judge, who by his order denied the motion.

*491 THE FACTS

We proceed to review the facts in the light of the stated question. Enstrom manufactured the helicopter (in which plaintiff is alleged to have suffered damages) and initially sold it to a party in the State of Maryland. It crashed and was damaged, and was then purchased by the respondent Helicopters, Inc. Helicopters, Inc. took the helicopter to Enstrom's Michigan plant, where it was repaired. The work was performed by employees of Enstrom, along with the president of Helicopters, Inc., and one Voight Corley. Enstrom invoiced Helicopters, Inc. for both the replacement parts (\$19,634.22) and the labor its employees supplied (\$712.50). Enstrom certified the helicopter as 'airworthy'. Thereafter, on July 31, 1971, at Saluda, South Carolina, the helicopter crashed again while being piloted by Lester Hembel, President of Helicopters, Inc. At the time, William B. Peeler, plaintiff, who had purchased the helicopter, was riding as a passenger and was injured when the helicopter lost power and crashed.

Enstrom has no offices, bank accounts, or employees in South Carolina, and it asserts that it has no 'network of customers' that it systematically services. Enstrom maintains that its random visits to South Carolina were in no way connected to the crash of the helicopter, and argues that the small business transactions with respondent were insufficient to constitute 'doing business' in South Carolina.

[1] It is well settled that a finding of the lower court that a defendant was transacting**346 business in South Carolina to the extent necessary to subject it to the jurisdiction of the courts of this State is binding upon us unless the finding is without support in the evidence, or the finding is manifestly influenced or controlled by error of law.[Thompson v. Ford](#)

[Motor Co.](#), 200 S.C. 393, 21 S.E.2d 34 (1942); [Jones v. General Motors Corp.](#), 197 S.C. 129, 14 S.Ed.2d 628 (1941); *492[Carolina Boat & Plastics Co. v. Glascoat Distributors, Inc.](#), 249 S.C. 49, 152 S.E.2d 352; West's South Carolina Digest, Appeal and Error,  1010(1).

There is little conflict of substance in the evidence. It is certainly susceptible of more than one reasonable inference, and we do not think it can be soundly held that Judge Grimball's findings in the court below are unsupported by the evidence, nor do we perceive wherein any of his findings or conclusions were influenced by error of law. From his order we find the following:

'As to the specific instances and occasions when Enstrom had business contacts in South Carolina, the following is taken verbatim from the Hembel affidavit:

'That on the following instances and occasions representatives of R. J. Enstrom Corporation came to South Carolina in connection with its business or promoting its business interests as follows:

'(a) Andy Aastad, vice president, marketing, of R. J. Enstrom Corporation came to Charleston, South Carolina on about May 20, 1969 to demonstrate an Enstrom F-28A helicopter for police and a television station. He also conferred with affiant on the occasion.

'(b) Robert Dorsey, a field service representative of R. J. Enstrom Corporation, visited the undersigned approximately in May 1969 and October 1969.

'(c) In 1971 a meeting with F. Lee Bailey, president of R. J. Enstrom Corporation, and affiant was held in Charleston, South Carolina to discuss the possibility of South Carolina Helicopters, Inc. obtaining an Enstrom dealership in South Carolina.

'(d) In 1971, some time after July 31, 1971, Mike Brooks, factory service representative of R. J. Enstrom Corporation, came to Saluda, South Carolina and inspected the helicopter wreckage and, on in-

formation and belief, the site of the crash.

***493** '(e) On information and belief, in or about March 1972, Mike Meger, vice president of R. J. Enstrom Corporation, was in Greenville, South Carolina to demonstrate and F-28A helicopter.

'(f) On other instances and occasions, the exact dates and identities of the persons not being now known, inasmuch as there was no reason to record same, representatives of R. J. Enstrom Corporation visited affiant at the offices of South Carolina Helicopters, Inc. in Saluda, South Carolina.'

Hembel, president of Helicopters, Inc., averred that 'for a number of years prior to July 31, 1971, South Carolina Helicopters, Inc., had purchased helicopter parts from R. J. Enstrom Corporation on an open account, at times showing a debit balance and at other times showing a credit balance.' He further said that he had received brochures and a maintenance manual and other promotional material from time to time. And also, that he and Voight Corley had been certified by Enstrom as qualified to perform work on, or service Enstrom helicopters. He paid the labor charges and paid for parts, including a new engine, rotor blades, and a new belt drive assembly, necessary to complete the repairs of the 'crashed' helicopter.

[2] In [Boney v. Trans-State Dredging Co.](#), 237 S.C. 54, 115 S.E.2d 508 (1960), this Court established four considerations which are to be used in determining whether a foreign corporation had sufficient contacts in the state to confer jurisdiction:

- **347** (1) the duration of the corporate activity in the state;
- (2) the character of the corporate acts;
- (3) the circumstances of the corporate acts; and
- (4) the inconveniences of the parties in conferring or refusing to confer jurisdiction over the non-resident corporation.

***494** [3] In the case at bar, appellant's activities could not be classified as systematic and continuous. However, by its own admission, it made five or six promotional visits in South Carolina prior to the accident. It cannot be doubted that appellant's promotional efforts created in part, or in whole, the business activities between Enstrom and Helicopters, Inc. It is also significant that these promotional activities were conducted over a six-year period.

The circumstances of appellant's acts are also significant in the determination of jurisdiction. Enstrom manufactured the helicopter, assisted in its repair (cost over \$20,000), and then certified it as air-worthy. It is logical to conclude that the repair work and certification were done with the knowledge, either actual or constructive, that the helicopter would return to South Carolina. Further, it is of some significance that, after the crash, appellant's representative came to South Carolina to inspect the wrecked helicopter and crash site.

The inconvenience to the parties, while not alone controlling, plays a part in the determination of jurisdiction. The accident occurred in South Carolina, and therefore the witnesses and the scene of the accident are in this forum. To require Helicopters, Inc. (or Peeler) to go to Michigan to bring this suit seems to be a greater inconvenience than to require appellant, who has periodically come into this State over the years, to come to South Carolina.

Conferring jurisdiction over Enstrom does not offend the 'fair play and substantial justice' concept of [International Shoe v. Washington](#), 326 U.S. 310, 66 S.Ct. 154, 90 L.Ed. 95 (1945). The nature and quality of appellant's contacts were sufficient to hold it amenable to process in this State without violating due process. The work-product of Enstrom cannot be said to have ended up in South Carolina merely as a result of 'channels of trade.' See [Phillips v. Knapp-Monarch Co.](#), 245 S.C. 383, 140 S.E.2d 786 (1965).

***495** Under the authorities, the facts disclosed by

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the record, and the inferences reasonably deducible therefrom, we conclude that Enstrom had sufficient contacts with this State that the maintenance of this action does not offend traditional notions of fair play and substantial justice, and that there was no error on the part of the court in denying Enstrom's motions.

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END OF DOCUMENT

The ruling of the lower court, and our affirmance, is consistent with our holdings in the recent case of [Triplett v. R. M. Wade and Company](#), 261 S.C. 419, 200 S.E.2d 375, and the case of [Thompson v. Hofmann, S.C.](#), 210 S.E.2d 461, filed December 4, 1974.

Affirmed.

MOSS, C.J., concurs.

LEWIS and BUSSEY, JJ., and NESS, Acting Associate Judge, concur in result. BUSSEY, Justice (concurring):

I concur in the result reached by Mr. Justice Littlejohn in his opinion. In [Triplett v. R. M. Wade and Company](#), (1973), 261 S.C. 419, 200 S.E.2d 375, in holding a foreign corporation amenable to the process of this State, we noted the clear judicial and legislative trend toward a broadened, liberal concept of what constitutes transacting business in the State of South Carolina as a basis for jurisdiction of a foreign corporation. In [Thompson v. Hofmann, S.C.](#), 210 S.E.2d 461, filed December 4, 1974, we upheld the constitutionality of sections 10.2-801 through 10.2-809, 1962 Code of Laws (Supp.1973); Act No. 1065, 54 Stat. 4027 **348 (1966), as reenacted by Act No. 1343, 57 Stat. 2518 (1972). It seems clear to me that by virtue of these code sections alone, and without reference to any of our prior decisions construing and applying earlier longarm statutes, the lower court properly held the appellant to be, under the facts of this case, subject to the jurisdiction of the courts of South Carolina.

LEWIS, J., and NESS, Acting Associate Judge, concur.

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