

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 98-3692

D.C. Docket No. 1:97-CV-1-MMP

FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT
MAR 24 2000
THOMAS K. KAHN
CLERK

STEPHEN R. BOYES and
PATRICE BOYES,

Plaintiffs-Appellants,

versus

SHELL OIL PRODUCTS COMPANY,
MOBIL OIL COMPANY, and
TENNECO OIL COMPANY,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Florida

(March 24, 2000)

ON PETITIONS FOR REHEARING AND SUGGESTIONS
OF REHEARING EN BANC

Before CARNES, Circuit Judge, and RONEY and HILL, Senior Circuit Judges.

PER CURIAM:

Having considered the petitions for rehearing and for rehearing en banc, we conclude that they are to be denied. In doing so, however, we wish to clarify that our holding in this case was a narrow one. The only issue before us was whether the district court erred in abstaining from hearing the Boyes' lawsuit brought under the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901-6992. We held that the district court did err. The reason abstention was inappropriate, we explained, is that Fla. Stat. § 376.308(5) is preempted by the citizen suit provision of the RCRA to the extent that § 376.308(5) would operate to bar suit to enforce the RCRA.

We have had no occasion in this appeal to express any view on any other aspect of the Florida statute or program involved in this case, and we do not do so. We expressed in our original opinion, and we express now, no view on whether any other aspect of the Florida program is preempted in any other circumstance or case. More specifically, we have expressed no view on the operation of § 376.308(5) as a bar to suit to enforce state law.

The petitions for panel rehearing are DENIED and no member of this panel nor other judge in regular active service on the Court having requested that the Court be

polled on rehearing en banc (Rule 35, Federal Rules of Appellate Procedure; Eleventh Circuit Rule 35-5), the petitions for rehearing en banc are DENIED.