

05-1256 PHILIP MORRIS USA V. WILLIAMS

DECISION BELOW:127 P3d 1165

LOWER COURT CASE NUMBER: S51805

QUESTIONS PRESENTED:

In this case brought by the widow of a smoker, the jury held Philip Morris liable for fraud and awarded \$79.5 million in punitive damages -- 97 times the compensatory damages awarded by the jury. On remand from this Court for reconsideration in light of *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003), the Oregon Supreme Court upheld the trial court's refusal to instruct the jury that it could not punish Philip Morris for harms to nonparties, concluding that a jury may punish for such harms so long as the conduct that caused those harms is similar to the conduct that harmed the plaintiff. Then, construing the evidence in the light most favorable to the plaintiff, the court proceeded to hold that the punitive award was not unconstitutionally excessive, despite concluding that the punitive award was not reasonably related to the harm to the plaintiff. The questions presented, each of which is the subject of a conflict in the lower courts, are:

1. Whether, in reviewing a jury's award of punitive damages, an appellate court's conclusion that a defendant's conduct was highly reprehensible and analogous to a crime can "override" the constitutional requirement that punitive damages be reasonably related to the plaintiff's harm.
2. Whether due process permits a jury to punish a defendant for the effects of its conduct on non-parties.
3. Whether, in reviewing a punitive award for excessiveness, an appellate court is permitted to give the plaintiff the benefit of all conceivable inferences that might support a finding of high reprehensibility even if the jury made no such specific factual findings.

CERT. GRANTED 5/30/2006

LIMITED TO QUESTIONS 1 AND 2 PRESENTED BY THE PETITION.