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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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STATE OIL CO. *v.* KHAN ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

No. 96 871. Argued October 7, 1997 Decided November 4, 1997.

Respondents agreement to lease and operate a gas station obligated them to buy gasoline from petitioner State Oil Company at a price equal to a suggested retail price set by State Oil, less a specified profit margin, required them to rebate any excess to State Oil if they charged customers more than the suggested price, and provided that any decrease due to sales below the suggested price would reduce their margin. After they fell behind in their lease payments and State Oil commenced eviction proceedings, respondents brought this suit in federal court, alleging in part that, by preventing them from raising or lowering retail gas prices, State Oil had violated §1 of the Sherman Act. The District Court entered summary judgment for State Oil on this claim, but the Seventh Circuit reversed on the basis of *Albrecht* v. *Herald Co.*, 390 U. S. 145, 152 154, in which this Court held that vertical maximum price fixing is a *per se* antitrust violation. Although the Court of Appeals characterized *Albrecht* as unsound when decided and inconsistent with later decisions, it felt constrained to follow that decision.

Held: *Albrecht* is overruled. Pp. 3 16.

(a) Although most antitrust claims are analyzed under a rule of reason, under which the court reviews a number of relevant factors, see, *e. g., Arizona* v. *Maricopa County Medical Soc.,* 457 U. S. 332, 342 343, some types of restraints on trade have such predictable and pernicious anticompetitive effect, and such limited potential for procompetitive benefit, that they are deemed unlawful *per se,* see, *e. g., Northern Pacific R. Co.* v. *United States*, 356 U. S. 1, 5. A review of this Court s pertinent decisions is relevant in assessing the continuing validity of the *Albrecht per se* rule. See, *e. g., Kiefer-Stewart Co.* v. *Joseph E. Seagram & Sons, Inc.,* 340 U. S. 211, 213 (maximum resale

price fixing illegal *per* se); United *States* v. *Arnold, Schwinn & Co.*, 388 U. S. 365, 379 380 (vertical nonprice restrictions illegal *per se*); *Continental T. V., Inc.* v. *GTE Sylvania Inc.*, 433 U. S. 36, 47 49, 58 59 (overruling *Schwinn*). A number of this Court s later decisions have hinted that *Albrecht* s analytical underpinnings were substantially weakened by *GTE Sylvania* see, *e. g., Maricopa County, supra,* at 348, n. 18; *324 Liquor Corp.* v. *Duffy,* 479 U. S. 335, 341 342; *Atlantic Richfield Co.* v. *USA Petroleum Co.,* 495 U. S. 328, 335, n. 5, 343, n. 13 and there is a considerable body of scholarship discussing the procompetitive effects of vertical maximum price fixing. Pp. 3 9.

(b) Informed by the foregoing decisions and scholarship, and guided by the general view that the antitrust laws primary purpose is to protect interbrand competition, see, *e. g.*, *Business Electronics Corp.* v. *Sharp Electronics Corp.*, 485 U. S. 717, 726, and that condemnation of practices resulting in lower consumer prices is disfavored, *Matsushita Elec. Industrial Co.* v. *Zenith Radio Corp.*, 475 U. S. 574, 594, this Court finds it difficult to maintain that vertically-imposed maximum prices could harm consumers or competition to the extent necessary to justify their *per se* invalidation *Albrecht* s theoretical justifications for its *per se* rule that vertical maximum price fixing could interfere with dealer freedom, restrict dealers ability to offer consumers essential or desired services, channel distribution through large or specially-advantaged dealers, or disguise minimum price fixing schemes have been abundantly criticized and can be appropriately recognized and punished under the rule of reason. Not only are they less serious than the *Albrecht* Court imagined, but other courts and antitrust scholars have noted that the *per se* rule could in fact exacerbate problems related to the unrestrained exercise of market power by monopolist-dealers. For these reasons, and because *Albrecht* is irrelevant to ongoing Sherman Act enforcement, see *Copperweld Corp.* v. *Independence Tube Corp.,* 467 U. S. 752, 777, and n. 25, and there are apparently no cases in which enforcement efforts have been directed solely against the conduct condemned in *Albrecht,* there is insufficient economic justification for the *per se* rule. Respondents arguments in favor of the rule that its elimination should require persuasive, expert testimony establishing that it has distorted the market, and that its retention is compelled by *Toolson* v. *New York Yankees, Inc.,* 346 U. S. 356, and *Flood* v. *Kuhn,* 407 U. S. 258 are unavailing. Pp. 9 14.

(c) *Albrecht* does not deserve continuing respect under the doctrine of *stare decisis*. *Stare decisis* is not an inexorable command, particularly in the area of antitrust law, where there is a competing interest in recognizing and adapting to changed circumstances and the lessons of accumulated experience. See, *e.g., National Soc. of Pro-*

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fessional Engineers v. *United States,* 435 U. S. 679, 688. Accordingly, this Court has reconsidered its decisions construing the Sherman Act where, as here, the theoretical underpinnings of those decisions are called into serious question. See, *e.g.*, *Continental T. V., Inc.* v. *GTE Sylvania Inc.,* 433 U. S. 36. Because *Albrecht* has been widely criticized since its inception, and the views underlying it have been eroded by this Court s precedent, there is not much of that decision to salvage. See, *e.g.*, *Neal* v. *United States*, 516 U. S. 284, 295. In overruling *Albrecht*, the Court does not hold that all vertical maximum price fixing is *per se* lawful, but simply that it should be evaluated under the rule of reason, which can effectively identify those situations in which it amounts to anticompetitive conduct. The question whether respondents are entitled to recover damages in light of this Court s overruling of *Albrecht* should be reviewed by the Court of Appeals in the first instance. Pp. 14 16.

93 F. 3d 1358, vacated and remanded.

O CONNOR, J., delivered the opinion for a unanimous Court.