Syllabus

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.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

LOZMAN *v.* CITY OF RIVIERA BEACH, FLORIDA

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

No. 11–626. Argued October 1, 2012—Decided January 15, 2013

Petitioner Lozman's floating home was a house-like plywood structure with empty bilge space underneath the main floor to keep it afloat. He had it towed several times before deciding on a marina owned by the city of Riviera Beach (City). After various disputes with Lozman and unsuccessful efforts to evict him from the marina, the City brought a federal admiralty lawsuit *in rem* against the floating home, seeking a lien for dockage fees and damages for trespass. Lozman moved to dismiss the suit for lack of admiralty jurisdiction. The District Court found the floating home to be a "vessel" under the Rules of Construction Act, which defines a "vessel" as including "every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water," 1 U. S. C. §3, concluded that admiralty jurisdiction was proper, and awarded the City dockage fees and nominal damages. The Eleventh Circuit affirmed, agreeing that the home was a "vessel" since it was "capable" of movement over water despite petitioner's subjective intent to remain moored indefinitely.

Held:

1. This case is not moot. The District Court ordered the floating home sold, and the City purchased the home at auction and had it destroyed. Before the sale, the court ordered the City to post a bond to ensure Lozman could obtain monetary relief if he prevailed. P. 3.

2. Lozman's floating home is not a §3 "vessel." Pp. 3–15.

(a) The Eleventh Circuit found the home "capable of being used . . . as a means of transportation on water" because it could float and proceed under tow and its shore connections did not render it incapable of transportation. This interpretation is too broad. The definition of "transportation," the conveyance of persons or things from one

place to another, must be applied in a practical way. *Stewart* v. *Dutra Constr. Co.*, 543 U. S. 481, 496. Consequently, a structure does not fall within the scope of the statutory phrase unless a reasonable observer, looking to the home's physical characteristics and activities, would consider it designed to a practical degree for carrying people or things over water. Pp. 3–5.

(b) But for the fact that it floats, nothing about Lozman's home suggests that it was designed to any practical degree to transport persons or things over water. It had no steering mechanism, had an unraked hull and rectangular bottom 10 inches below the water, and had no capacity to generate or store electricity. It also lacked self-propulsion, differing significantly from an ordinary houseboat. Pp. 5–6.

(c) This view of the statute is consistent with its text, precedent, and relevant purposes. The statute's language, read naturally, lends itself to that interpretation: The term "contrivance" refers to something "employed in contriving to effect a purpose"; "craft" explains that purpose as "water carriage and transport"; the addition of "water" to "craft" emphasizes the point; and the words, "used, or capable of being used, as a means of transportation on water," drive the point home. Both *Evansville & Bowling Green Packet Co.* v. *Chero Cola Bottling Co.*, 271 U. S. 19, and *Stewart, supra*, support this conclusion. *Evansville* involved a wharfboat floated next to a dock, used to transfer cargo, and towed to harbor each winter; and *Stewart* involved a dredge used to remove silt from the ocean floor, which carried a captain and crew and could be navigated only by manipulating anchors and cables or by being towed. Water transportation was not the primary purpose of either structure; neither was in motion at relevant times; and both were sometimes attached to the ocean bottom or to land. However, *Stewart*'s dredge, which was regularly, but not primarily, used to transport workers and equipment over water, fell within the statutory definition while *Evansville*'s wharfboat, which was not designed to, and did not, serve a transportation function, did not. Lower court cases, on balance, also tend to support this conclusion. Further, the purposes of major federal maritime statutes—*e.g.*, admiralty provisions provide special attachment procedures lest a vessel avoid liability by sailing away, recognize that sailors face special perils at sea, and encourage shipowners to engage in port-related commerce—reveal little reason to classify floating homes as "vessels." Finally, this conclusion is consistent with state laws in States where floating home owners have congregated in communities. Pp. 6–11.

(d) Several important arguments made by the City and its *amici* are unavailing. They argue that a purpose-based test may introduce a subjective element into "vessel" determinations. But the Court has

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considered only objective evidence, looking to the views of a reasonable observer and the physical attributes and behavior of the structure. They also argue against using criteria that are too abstract, complex, or open-ended. While this Court's approach is neither perfectly precise nor always determinative, it is workable and consistent and should offer guidance in a significant number of borderline cases. And contrary to the dissent's suggestion, the Court sees nothing to be gained by a remand. Pp. 11–14.

(e) The City's additional argument that Lozman's floating home was *actually* used for transportation over water is similarly unpersuasive. P. 14.

649 F. 3d 1259, reversed.

BREYER, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA, THOMAS, GINSBURG, ALITO, and KAGAN, JJ., joined. SOTOMAYOR, J., filed a dissenting opinion, in which KENNEDY, J., joined.

SUPREME COURT OF THE UNITED STATES

No. 11–626

FANE LOZMAN, PETITIONER *v.* THE CITY OF RIVIERA BEACH, FLORIDA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

[January 15, 2013]

JUSTICE BREYER delivered the opinion of the Court.

The Rules of Construction Act defines a "vessel" as including "every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water." 1 U. S. C. §3. The question before us is whether petitioner's floating home (which is not self-propelled) falls within the terms of that definition.

In answering that question we focus primarily upon the phrase "capable of being used." This term encompasses "practical" possibilities, not "merely . . . theoretical" ones. *Stewart* v. *Dutra Constr. Co.*, 543 U. S. 481, 496 (2005). We believe that a reasonable observer, looking to the home's physical characteristics and activities, would not consider it to be designed to any practical degree for carrying people or things on water. And we consequently conclude that the floating home is not a "vessel."

I

In 2002 Fane Lozman, petitioner, bought a 60-foot by 12-foot floating home. App. 37, 71. The home consisted of a house-like plywood structure with French doors on three sides. *Id.*, at 38, 44. It contained a sitting room, bedroom,

closet, bathroom, and kitchen, along with a stairway leading to a second level with office space. *Id.*, at 45–66. An empty bilge space underneath the main floor kept it afloat. *Id.*, at 38. (See Appendix, *infra*, for a photograph.) After buying the floating home, Lozman had it towed about 200 miles to North Bay Village, Florida, where he moored it and then twice more had it towed between nearby marinas. In 2006 Lozman had the home towed a further 70 miles to a marina owned by the city of Riviera Beach (City), respondent, where he kept it docked. Brief for Respondent 5.

After various disputes with Lozman and unsuccessful efforts to evict him from the marina, the City brought this federal admiralty lawsuit *in rem* against the floating home. It sought a maritime lien for dockage fees and damages for trespass. See Federal Maritime Lien Act, 46 U. S. C. §31342 (authorizing federal maritime lien against vessel to collect debts owed for the provision of "necessaries to a vessel"); 28 U. S. C. §1333(1) (civil admiralty jurisdiction). See also *Leon* v. *Galceran*, 11 Wall. 185 (1871); *The Rock Island Bridge*, 6 Wall. 213, 215 (1867).

Lozman, acting *pro se,* asked the District Court to dismiss the suit on the ground that the court lacked admiralty jurisdiction. See 2 Record, Doc. 64. After summary judgment proceedings, the court found that the floating home was a "vessel" and concluded that admiralty jurisdiction was consequently proper. Pet. for Cert. 42a. The judge then conducted a bench trial on the merits and awarded the City $3,039.88 for dockage along with $1 in nominal damages for trespass. *Id.,* at 49a.

On appeal the Eleventh Circuit affirmed. *Riviera Beach* v. *That Certain Unnamed Gray, Two-Story Vessel Approximately Fifty-Seven Feet in Length*, 649 F. 3d 1259 (2011). It agreed with the District Court that the home was a "vessel." In its view, the home was "capable" of movement over water and the owner's subjective intent to remain

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