Butler v. American Trawler Company United States Court of Appeals, Fifth Circuit, 6 October 1989 887 F.2d 20

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An invited ship passenger’s diversity action against a wharf owner to recover for injuries sustained while attempting to board a docked ship was governed by maritime law’s three year statute of limitations.

**FACTS:** Barbara Butler alleged that on May 8, 1984, she tried to board a ship, the Sea Lion VII, docked in Newington, New Hampshire. As she approached the end of the wharf, she noticed that the ladder from the wharf to the ship was not usable. She decided to climb down to the Sea Lion VII using the vessel’s rigging, which was in close proximity to the wharf. While attempting to board the ship in this manner, she severely injured her finger in the ship’s rigging. She sued on the theory of negligence, claiming that American Trawler, the owner of the wharf, failed to provide a usable ladder. The district court granted American Trawler’s motion for summary judgment.

**ISSUE:** Whether boarding a ship bears significant relation to traditional maritime activities, for the purposes of determining in a diversity suit, whether a tort that occurs while boarding a ship, is within admiralty jurisdiction and thereby governed by maritime law?

**ANALYSIS:** The Court of Appeals, for the Fifth Circuit, held that boarding a ship was within admiralty jurisdiction and governed by maritime law’s three year statute of limitations. Maritime law will govern if admiralty jurisdiction pertains. *Austin v. Unarco Industries, Inc.*, 705 F.2d 1 (1st Cir. 1983). Admiralty jurisdiction will lie when the tort at issue 1) occurred on navigable waters and 2) bore a significant relation to traditional maritime activities. In the case at hand, the tort occurred on navigable waters. The fact that the injury took place on the ship, precluded a debate over whether the wharf was to be considered part of the land. For the purposes of admiralty jurisdiction, the controlling case law holds that the tort occurs where the negligence "takes effect," not where the negligent act took place. *Executive Jet Aviation v. City of Cleveland*, 409 U.S. 249, 266 (1972).

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