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Churchwell v. Bluegrass Marine, Inc. United States Court of Appeals for the 6th Circuit 444 F.3d 898 (Decided April 21, 2006)

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The Court of Appeals agreed with B.P. that failing to provide a safe working environment aboard a vessel is a maritime tort. It found that although the liftboat was not “under sail,” it nevertheless qualified as a vessel in navigable waters, thus satisfying *Grubert*’s location requirement. Furthermore, the Court, noting that a shipowner, or charterer in control of a vessel, owes a duty of care to those working on the vessel with respect to the condition of the ship’s gear, equipment, tools and work space observed that the United States Supreme Court has consistently applied maritime law to actions arising out of the failure to perform such duties. Thus, Strong’s claim that his injury arose out of unsafe, cluttered working conditions on the liftboat deck sounded in maritime law.

The Court of Appeals held that because Strong alleged a traditional maritime tort, federal maritime law applied of its own force and precluded the incorporation of Louisiana law under OCSLA. Accordingly, Strong’s claim was time-barred by the three-year statute of limitations, and the court remanded the matter to the district court with instructions to enter summary judgment in favor of B.P.

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DISTRICT COURT ERRED IN GRANTING VESSEL OWNERS’ MOTION FOR SUMMARY JUDGMENT IN SUIT BROUGHT SEEKING DAMAGES FOR PERSONAL INJURY

The United States Court of Appeals for the 6th Circuit reversed an order of the district court granting summary judgment in favor of the Defendant vessel owners, stating that there were genuine issues of material fact concerning Plaintiff’s claim of the vessel’s unseaworthiness in violation of general maritime law and claim of negligence in violation of the Jones Act.

Churchwell v. Bluegrass Marine, Inc.
United States Court of Appeals for the 6th Circuit
444 F.3d 898
(Decided April 21, 2006)

Plaintiff Glenda Churchwell was employed as a cook on Defendants’ ship, the *Marie Hendrick*. Plaintiff brought an action in United States District Court for the Western District of Kentucky to recover damages for personal injury sustained during her employment. According to the Plaintiff, she was instructed by a crewman to store excess cooking grease in a metal coffee can. On one occasion, Plaintiff poured grease from the skillet into a coffee can in accordance with those instructions. She then picked up the coffee can by pinching its rim, inserting her thumb into the can while placing her other four fingers on the exterior of the can. Because the interior of the can was covered in grease, the coffee can slipped from her grip and fell onto a mat on the floor. Plaintiff stepped away from the spill, slipped in the grease and sustained injuries to her back.

Plaintiff argued that she would not have dropped the can had she been provided with a container with handles in which to store the grease, and that she would not have slipped if the floor had been properly furnished with a grease mat that had holes to redirect the spilled grease. She also contended that the combination of these two factors created a dangerous work environment that caused the accident and her resulting injuries.

Defendants moved for summary judgment, suggesting that the manner in which the Plaintiff picked up the grease can was negligent and the sole proximate cause of the accident. Defendants also argued they had not breached any legal duty by providing an unreasonably dangerous work environment. The district court granted Defendants’ motion for summary judgment, holding that there

was no evidence that the *Marie Hendrick* was unseaworthy or that Defendants had breached their duty of “ordinary prudence” under the Jones Act. Plaintiff appealed.

Under the doctrine of seaworthiness, a ship owner is strictly liable for injuries that are caused by his or her vessel’s ‘unseaworthiness.’ *Mitchell v. Trawler Racer, Inc.*, 362 U.S. 539, 549 (1960). A vessel is deemed unseaworthy if the vessel and its appurtenances are not “reasonably fit for their intended use.” *Id.* at 550. In general, the issue of unseaworthiness is a question of fact for a jury. *Cook v. American S.S. Co.*, 53 F.3d 733, 742 (6th Cir. 1995).

In order to prevail on a claim of unseaworthiness, a Plaintiff must prove that a vessel’s unseaworthy condition was the proximate cause of injury to the Plaintiff. The proximate cause requirement is satisfied if the vessel’s unseaworthiness played a substantial part in causing the injury and the injury was either a direct result or a reasonably probable consequence of unseaworthiness. *Johnson v. Offshore Express, Inc.*, 845 F.2d 1347, 1354 (5th Cir. 1988).

The Court found that Plaintiff’s testimony created a genuine issue of material fact with respect to whether the absence of grease mats and a container with a handle rendered the *Marie Hendrick* unseaworthy. The Court noted that a vessel could be considered unseaworthy if it contained defective gear, was missing necessary gear or because its crew was instructed to use unsafe work methods. The Court also found that because reasonable people could disagree as to whether the absence of grease mats and a handled container conditions were substantial factors causing Plaintiff’s injury, the question of proximate causation was properly an issue for the jury’s determination. As a result, Plaintiff had introduced sufficient evidence to create a genuine issue of material fact as to both elements of an unseaworthiness claim: 1) a vessel’s unseaworthy condition; and 2) proximate causation.

The Jones Act, 46 U.S.C. § 688, authorizes seamen to maintain negligence actions for personal injury suffered in the course of employment. Under the Jones Act, an employer has a duty to provide a safe workplace for its employees, and, in order to sustain a claim under the Act, a plaintiff must show that her employer breached this duty by neglecting to cure or eliminate obvious dangers of which the employer or its agents knew or should have known. *Rannals v. Diamond Jo Casino*, 265 F.3d 442, 449 (6th Cir. 2001). Once a plaintiff establishes that the employer breached his duty of care, the plaintiff need not establish proximate causation, but merely that the defendant’s actions contributed in some way toward causing the plaintiff’s injuries. *Miller v. Am. President Lines, LTD*, 989 F.2d 1450, 1463 (6th Cir. 1993).

The Court, noting that the requisite level of causation was lower under the Jones Act than under a claim of unseaworthiness, stated that Plaintiff had presented sufficient evidence to create a genuine issue of material fact as to each element of her Jones Act claim: 1) the kitchen was unreasonably dangerous; 2) the dangerous condition cause Plaintiff to fall; and 3) Defendants should have known about the dangerous condition. Thus, Plaintiff’s Jones Act claim should have been submitted to the jury.

The Court of Appeals held that the district court erred in granting Defendants’ motion for summary judgment dismissing Plaintiff’s unseaworthiness and Jones Act claims. The Court stated that Plaintiff had presented sufficient evidence to create genuine issues of material fact concerning elements of each of these claims. The Court also noted that because maritime law espouses the concept of comparative negligence, Plaintiff’s alleged negligent acts would not bar recovery. The Court added that the only exception to this rule was the primary duty doctrine, under which an employee responsible for maintaining safe conditions may not sue his employer for his own failure to maintain such conditions. This doctrine was held inapplicable to the instant case. Accordingly, the Court of Appeals reversed the order of the district court granting the Defendants’ motion for summary judgment and remitted the case for trial.

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