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**A WATERWAY WITH ARTIFICIAL OBSTRUCTIONS THAT PREVENT
COMMERCE DOES NOT SUFFICE AS NAVIGABLE WATERS NECESSARY TO
INVOKE A FEDERAL COURT’S ADMIRALTY JURISDICTION**

Youry Tunidor v Miami-Dade County

831 F.3d 1328

United States Court of Appeals for the Eleventh Circuit

(Filed August 3, 2016)

The Eleventh Circuit Court of Appeals held that the Coral Park Canal, due to artificial obstructions on the waterway, cannot support interstate commerce and was not navigable waters within the meaning of 28 U.S.C § 1333(1), upholding Miami-Dade County’s motion to dismiss for lack of subject-matter jurisdiction

In July of 2013, Youry Tunidor (“Tunidor”) suffered serious injuries while traveling as a passenger on a pleasure boat on the Coral Park Canal.¹ During its course of travel, the boat passed under the Coral Park Canal Bridge.² Passengers ducked their heads as the boat emerged on the south side of the bridge, however, Tunidor was struck on the head by a water pipe and was ejected from the boat into the canal.³ The Coral Park Canal is a drainage canal that connects to the Tamimami Canal, which connects to the Miami River and eventually the Atlantic Ocean.⁴ The Coral Park Canal Bridge contains a series of low-lying bridges, water pipes, and railroad tracks partially, which obstruct the waterway.⁵ After this series of obstructions, a water control structure labeled S-25B prevents navigation from the western side of the structure to the Miami River, and features a sign which reads “DANGER – NO BOATING BEYOND THIS POINT.”⁶

Tunidor brought suit against Miami-Dade County, who owned and operated the water line, in the district court for negligence.⁷ Tunidor, on the grounds that the accident occurred on a navigable waterway, argued that the court had federal admiralty jurisdiction.⁸ The county moved to dismiss Tunidor’s claim for lack of subject-matter jurisdiction.⁹ The United States District Court for the Southern District of Florida dismissed the action, and Tunidor appealed.¹⁰

28 U.S.C 1331(1) has two requirements that a complaint must satisfy in order to invoke federal court’s admiralty jurisdiction: (1) there must be a significant relationship between the alleged wrong and the traditional maritime activity, which is the “nexus requirement” and (2) the tort must have occurred on navigable waters, which is the “location requirement.”¹¹ “Navigability” requires that a body of water be capable of supporting commercial maritime

¹ *Tunidor v. Miami-Dade County*, 831 F.3d 1328 (11th Cir. 2016).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 1331.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

activity.¹² Waters are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.¹³ Further, waterways constitute navigable waters within the meaning of the acts of Congress when they form in their ordinary condition by themselves, or by uniting with other waters, a continued highway over which commerce is or may be carried on with other States or foreign countries in the customary modes in which such commerce is conducted by water.¹⁴

The main issue addressed by the court was whether a waterway with artificial obstructions that prevent commerce can satisfy the navigable waters requirement needed for federal admiralty jurisdiction. The County argued that since the Coral Park Canal does not have a navigable connection to any larger body of water, it cannot be said that Tunidor was traveling on a navigable waterway.¹⁵ The court here agreed, reasoning that the Coral Park Canal is not navigable because the S-25B water control structure prevents vessels on the canal from traveling outside the State of Florida.¹⁶ Because the Coral Park Canal cannot support interstate commerce, it cannot satisfy the location requirement of admiralty jurisdiction.¹⁷

The court stated it has been well established that when artificial obstructions on a waterway block interstate travel, the waterway cannot support admiralty jurisdiction.¹⁸ Tunidor argued that the Coral Park Canal should be deemed navigable because it has a navigable connection to the Tamimami Canal, which historically served as a navigable waterway supporting commercial activity.¹⁹ Tunidor cited several other decisions attempting to apply and endorse a test of historical navigability, however the court disputed his claims on the basis that his precedents did not involve admiralty jurisdiction.²⁰

Moreover, the court claimed “the expansive definitions of navigability developed in commerce clause cases are not really appropriate in other contexts where the actual capability of a stream to support navigation is critical.”²¹ The court indicated that the purpose behind the grant of admiralty jurisdiction was “the protection and the promotion of the maritime shipping industry through the development and application, by neutral federal courts, of a uniform and specialized body of federal law.”²² History from the debates at the Constitutional Convention suggested that much of the justification for federal civil jurisdiction in admiralty was the protection of merchants, notably foreign traders.²³ Therefore, applying federal admiralty jurisdiction to waters that do not support interstate commerce is contrary to the original purpose of the legislation.

Tunidor argued that even in the absence of support for his historical argument, the Coral Park Canal has a navigable connection to the Miami River with a minor portage around the water control structure.²⁴ However, the court noted that the basis for plaintiff’s claims cited decisions

¹² *Id.*

¹³ *Id.* (quoting *The Daniel Ball*, 77 U.S. 557 (1870)).

¹⁴ *Id.*

¹⁵ *Tunidor*, supra note 1.

¹⁶ *Id.*

¹⁷ *Id.* at 1332.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 1333 (quoting *Livingston*, 627 F.2d at 169).

²² *Id.* (quoting *Adams*, 528 F.2d at 439).

²³ *Tunidor*, supra note 1.

²⁴ *Id.* at 1334.

dealing with the power of Congress and federal agencies, not admiralty jurisdiction.²⁵ A portage is neither a customary nor a practical means of carrying on interstate commerce.²⁶ Navigability requires that the body of water be capable of supporting *commercial* maritime activity, and “the possibility of recreational use assisted by multiple portages” is insufficient.²⁷ Tunidor also cited descriptions of the Tamimami Canal by a federal agency and a state agency, but neither is evidence that the Tamimami Canal is navigable for the purposes of admiralty jurisdiction.²⁸

Accordingly, the Eleventh Circuit held that the plaintiff failed to prove that the Coral Park Canal would suffice as navigable waters, and affirmed the dismissal of Tunidor’s complaint by the District Court.²⁹

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²⁵ *Id.*

²⁶ *Id.* at 1334. (quoting *The Daniel Ball*, 77 U.S. 557, 563)

²⁷ *Id.* (quoting *LeBlanc* 198 F.3d 353, 360 (2d Cir 1999).

²⁸ *Tunidor*, supra note 1.

²⁹ *Id.*