

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

m 00-30042
Summary Calendar

JAMES ALLEN SMITH AND SADIE BREWER SMITH,

Plaintiffs-Appellants,

VERSUS

CITGO PETROLEUM CORPORATION,

Defendant-Appellee.

Appeal from the United States District Court
for the Western District of Louisiana
(98-CV-1815)

July 11, 2000

Before SMITH, BARKSDALE, and
PARKER, Circuit Judges.

PER CURIAM:*

James Smith sued Citgo Petroleum

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Corporation for injuries allegedly suffered in an accident at a Citgo refinery. The district court granted summary judgment for Citgo, concluding that Smith was Citgo's statutory employee, so his exclusive remedies were under Louisiana's workers' compensation laws. The court also rejected Smith's argument that the workers' compensation laws violate the Equal Protection Clause.

In a thorough Memorandum Ruling, the

district court explained its reasons. The judgment is affirmed, essentially for the reasons given by the district court.

In summary, we agree with the district court's analysis of the futility of Smith's Equal Protection claims. We further agree that the facts of this case raised the rebuttable presumption, as per LA. REV. STAT. ANN. § 23:1061, that Smith was a statutory employee of Citgo and is therefore presumptively barred from bringing claims sounding in tort against the company, and that Smith cannot, given these facts, rebut that presumption in the manner required by the statute following its 1997 amendment.

AFFIRMED.