

May 5, 2004

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 03-30704
Summary Calendar

PHILLIP FLOYD; ELIZABETH FLOYD,

Plaintiffs-Appellees,

versus

ESSEX INSURANCE CO.; MARSHLAND
ENTERPRISES LLC,

Defendants-Appellants.

Appeal from the United States District Court for
the Eastern District of Louisiana
(USDC No. 02-CV-709-B)

Before REAVLEY, JONES and PRADO, Circuit Judges.

PER CURIAM:*

The judgment of the district court is affirmed for the following reasons:

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

1. The court applied the correct standard of reasonable care for the shipowner. It was not a failure to warn of an open and obvious danger. Nor was it for product liability. Nor was it some different standard applied by state law peculiar to slip and fall cases.

2. The court found that Floyd failed to exercise reasonable care in fishing while standing near an open hole. The court found the shipowner failed to exercise reasonable care in allowing Floyd to fish near the open hole under all the circumstances, including prior experience when other fishermen had stepped into it. The evidence supported the court's finding.

AFFIRMED.