

**FILED**

September 16, 2003

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 02-30985  
Summary Calendar

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JAMES A. PERKINS,

Plaintiff-Appellant,

versus

DAYBROOK FISHERIES, INC.,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Eastern District of Louisiana  
USDC No. 00-CV-3165-A  
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Before SMITH, DeMOSS, and STEWART, Circuit Judges.

PER CURIAM:\*

James A. Perkins, a crew member of the F/V SEA WASP, appeals from the jury's verdict of no Jones Act liability, no unseaworthiness, and no obligation to pay maintenance and cure in favor of Daybrook Fisheries, Inc., and from the district court's denial of his motion for judgment as a matter of law or, alternatively, for a new trial. Although Perkins moved for judgment as a matter of law post-verdict, he did not move for judgment pursuant to FED. R. CIV. P. 50(a) at the close of

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

evidence. Therefore, review of the sufficiency of the evidence should be limited to plain error. See United States ex rel. Wallace v. Flintco, Inc., 143 F.3d 955, 960 (5th Cir. 1998); Daigle v. Liberty Life Ins. Co., 70 F.3d 394, 397 n.2 (5th Cir. 1995). Review of the denial of a new trial is for abuse of discretion. See Hidden Oaks Ltd. v. City of Austin, 138 F.3d 1036, 1049 (5th Cir. 1998).

Perkins argues that the overwhelming weight of the evidence required a judgment in his favor that 1) he should have received maintenance and cure for a back injury as a result of a fall on June 1, 1999; 2) he should have received maintenance for a finger injury sustained on October 12, 1999; 3) the defendant's negligence caused his June 1, 1999, injury; and 4) the boat was unseaworthy on June 1, 1999. Our review of the record reveals that even under the usual standard of review, there was sufficient evidence to support the jury's verdict, and there was no plain error. Daigle, 70 F.3d at 397 n.2. The district court did not abuse its discretion in denying a new trial.

AFFIRMED.