

July 15, 2004

Charles R. Fulbruge III  
Clerk

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 03-51244  
Summary Calendar

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ROBERT L POWELL; ET AL

Plaintiffs

ROBERT L POWELL; ROBERT C CHILDS;  
WILLIS E PICKETT; TRACY ROWELL; RONALD FOLEY

Plaintiffs - Appellants

v

NORTHWESTERN RESOURCES CO

Defendant - Appellee

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. W-02-CV-13  
- - - - -

Before KING, Chief Judge, and DAVIS and BARKSDALE, Circuit  
Judges.

PER CURIAM:\*

Robert L. Powell, Robert C. Childs, Willis E. Pickett,  
Tracy Rowell, and Ronald Foley (collectively, the Plaintiffs)  
appeal from the district court's grant of partial summary  
judgment for Northwestern Resources Co. (NRC) relating to the

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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that this opinion should not be published and is not precedent  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.

Plaintiffs' Fair Labor Standards Act (FLSA) claim for overtime compensation for certain pre-shift and post-shift activities.\*\* The Plaintiffs' unopposed motion to correct a minor error in their reply brief is GRANTED.

The Plaintiffs assert that, among other things, the tasks of signing in at NRC's "ready room," receiving daily work assignments, conducting pre- and post-shift inspections of the company's transport vehicles, and travel time to and from their respective job sites, constituted integral components of their principal work activities from which NRC benefitted and for which the Plaintiffs were entitled to be paid.

We have reviewed the record and hold that the pre- and post-shift activities cited by the Plaintiffs were neither performed in the ordinary course of business nor for the benefit of NRC. See Vega v. Gaspar, 36 F.3d 417, 424-25 (5th Cir. 1994). Similarly, as determined by the district court, the Plaintiffs offer insufficient summary judgment proof of a contract or the existence of a custom or practice at NRC that compensated for travel time to a designated excavation site. See 29 U.S.C. § 254(b). Accordingly, because the Plaintiffs fail to identify specific evidence demonstrating the existence of a genuine issue for trial, the judgment of the district court is AFFIRMED. See

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\*\* On stipulation of the parties, the Plaintiffs' remaining claim regarding nonpayment of a night-shift premium was withdrawn and dismissed.

Celotex Corp. v. Catrett, 477 U.S. 317, 322-23 (1986); Anderson v. Liberty Lobby, 477 U.S. 242, 250 (1986).

AFFIRMED; MOTION GRANTED.