

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

---

No. 92-4493  
Summary Calendar

---

KENNETH JOHNSON,

Plaintiff-Appellant  
Cross-Appellee,

versus

POWELL OIL COMPANY, INC., ET AL.,

Defendants,

POWELL OIL COMPANY, INC.,

Defendant-Appellee  
Cross-Appellant.

---

Appeal from the United States District Court for  
the Western District of Louisiana  
CA 88 2244

---

(December 28, 1992)

Before REAVLEY, DAVIS and DEMOSS, Circuit Judges.

PER CURIAM:\*

Kenneth Johnson brought this Jones Act suit against Powell Oil Company and also sought maintenance and cure under general

---

\*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

maritime law. After trial before the court, judgment was entered denying Johnson all recovery. We affirm.

Johnson's claims rested entirely on his own testimony. Because of the impeachment against that testimony, the court found no credible evidence that Powell Oil was negligent or that its vessels were unseaworthy. The court further found that Johnson had reached maximum medical cure of any consequences of his fall by the time Power Oil terminated maintenance and cure payments, and that no further benefits were due.

Johnson's appellate brief argues his version of how and why he fell, but this has all been rejected by the fact finder. Bonin's testimony was of no help to Johnson. As for the physical consequences of Johnson's fall, the court accepted the testimony of three doctors that Johnson had reached maximum cure before Powell Oil terminated benefits on June 11, 1989.

Johnson complains of the court's exclusion of the testimony of Dr. Blanda. Johnson failed to disclose this doctor's name or his plan to operate, either at the first answer of interrogatories or thereafter, as requested, until after the operation had been performed. The court acted within its discretion in this ruling.

As for Powell Oil's cross appeal against Cliffs and Ronco, we agree with the district court that the trial record raises no issue of negligence on the part of either of them so as to make them liable for shares of maintenance and cure paid by Powell Oil to Johnson. We know that Johnson did not use a personnel basket

or walkway, but there is no proof of why this was the fault of either Cliffs or Ronco.

AFFIRMED.