

UNITED STATES COURT OF APPEALS  
For the Fifth Circuit

---

No. 92-7141  
Summary Calendar

---

RUDOLPH LOPEZ,

Plaintiff-Appellant,

VERSUS

MARITIME OVERSEAS CORPORATION and  
VALDEZ TANKSHIPS CORPORATION,

Defendants-Appellees.

---

Appeal from the United States District Court  
For the Southern District of Texas  
(CA G88 387)

---

( December 15, 1992 )

Before REYNALDO G. GARZA, SMITH, and WIENER, Circuit Judges  
Per Curiam:\*

The plaintiff, Rudolph Lopez ("Lopez"), contends that he was injured while working aboard the S/T Overseas Valdez. The defendant Valdez Tankships Corp. ("Valdez") employs the plaintiff and owns the S/T Overseas Valdez. After a bench trial on

---

\*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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

plaintiff's Jones Act claim the magistrate entered judgment for the defendants. The plaintiff appeals.

#### **FACTS & PROCEEDINGS**

Lopez was employed by Valdez as an oiler maintenance utility seaman aboard the S/T Overseas Valdez. Lopez suffered debilitating knee injuries allegedly while working aboard the vessel. The plaintiff proceeded on the theory that his injuries proximately resulted from Overseas Valdez's failure to adequately man the engine room department. The plaintiff contended at trial that his right knee was injured by repeatedly striking it on two pieces of the ship's equipment. The first piece of equipment that Lopez contended caused his injuries was an inverted steam valve that allegedly protruded into the catwalk. The second contention was that the plaintiff struck his right knee on the left edge of a water tight doorway.

This case was tried before magistrate Judge Froeschner. The magistrate judge rejected both of the plaintiff's contentions. The court found that the inverted steam valve did not protrude into the catwalk. Consequently, the court found that Lopez "could not unintentionally strike his right knee on the steam valve." Further, the court noted that it is extremely unlikely and incredible that anyone could strike their right knee on the left edge of a doorway. There was testimony that established this would have only been possible if the plaintiff had crossed his legs while passing through the doorway. Lopez now appeals.

## DISCUSSION

Lopez contends on appeal that the magistrate's findings of fact were clearly erroneous. Lopez does not controvert the evidence that the magistrate relied on with alternative evidence. Lopez merely states that the evidence before the judge should have satisfied the featherweight burden of proof that exists in Jones Act cases. Further, the plaintiff contends that his theory of negligence was sufficient even if it only established exacerbation of preexisting injuries. Plaintiff's contentions fail to establish that the trial judge was clearly erroneous in dismissing plaintiff's claims. Therefore, the judgment in favor of defendants is affirmed.

The determinations made by a trial judge are cloaked with the clearly erroneous standard of review. See Anderson v. Bessemer City, 470 U.S. 564, 574 (1985). When the trial court is faced with testimony that may lead to more than one conclusion, its factual determinations will stand so long as they are plausible -- even if we would have weighed the evidence otherwise. See id. While Lopez does point to testimony that supports his allegations of negligence, he fails to assert any connection between the alleged negligence and his injuries. Moreover, he failed to establish that his injuries occurred on board the Overseas Valdez. Therefore, because Lopez failed to prove grounds for causation to the trial court, and merely contests the district court's adverse factual findings by vague assertions as to the burden of proof -- these contentions are

simply insufficient to overturn the district court. See, e.g.,  
Verdin v. C & B Boat Co., 860 F.2d 150, 154 (5th Cir. 1988).

#### **CONCLUSION**

We are mindful that the plaintiff was not required to prove that his injuries occurred entirely or originally as a result of the defendant's negligence in order to recover. However, the magistrate properly considered the evidence before him and concluded that the plaintiff had not proved causation at all. In fact, from our vantage point, given the conclusions of the magistrate, this record is entirely bereft of any evidence that establishes causation. The plaintiff asserts that the magistrate was clearly erroneous; however, the vital aspect of plaintiff's case was causation and he still has failed to establish any shred of evidence in support of his claim. Therefore, the judgment of the district court is in all respects AFFIRMED.