

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-7630
Summary Calendar

DANNY HORTON,

Plaintiff-Appellee,

versus

TISHOMINGO COUNTY, MISSISSIPPI,

Defendant-Appellant.

Appeal from the United States District Court for
the Northern District of Mississippi
CA EC91 170 S D

April 30, 1993

Before REAVLEY, HIGGINBOTHAM and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Horton has recovered from the County for unpaid overtime during a year he worked as chief deputy in the sheriff's office. An equal sum was recovered for the willfulness of the sheriff and County. We affirm.

The County makes no complaint to the computation, but it argues that Horton was an administrative employee not covered by

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

the Fair Labor Standards Act, that the employees of the sheriff numbered less than five most of the time, and that application of the three year limitation period and assessment of liquidated damages were improper because the sheriff paid all overtime Horton sought and knew of no violation. All of these arguments are contrary to the findings of the court, and the findings are all supported by the testimony of Horton.

Horton testified that he repeatedly discussed the denial of overtime with the sheriff; because Horton was fully informed about the FLSA and the Garcia holding and he was concerned about the overtime hours turned in but not paid. Horton testified there were five deputies, and the County admitted that fact in its pleading. Horton also testified to his duties and to the fact that his primary work was not administrative or managerial but was the law enforcement work of the nature of the other deputies. We see no error.

AFFIRMED.