

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-3798
Summary Calendar

FABIOUS M. RICORD,
(Succession of Fabious M. Ricord, Jr.,
substituted as plaintiff in place of
Fabious M. Ricord, Jr.

Plaintiff-Appellant,

versus

ENERGY TRANSPORTATION COMPANY,

Defendant-Appellee.

Appeal from the United States District Court for
the Eastern District of Louisiana
(CA-92-3797-A)

(May 17, 1994)

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

PER CURAIM:*

BACKGROUND

Appellant Fabious Ricord instituted this suit against Energy Transportation Corporation ("ETC") in the Eastern District of Louisiana, alleging admiralty and maritime claims for an injury

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

he obtained while working as a crewmember aboard ETC vessels.¹ The district court granted ETC's motion to dismiss for lack of personal jurisdiction. We affirm.

ETC is a closely held corporation incorporated under the laws of Delaware. Its principal place of business is New York, New York. ETC is not authorized to do business in Louisiana and does not advertise or solicit business in Louisiana. ETC's vessels were operating in Asian waters at the time of the alleged injury; it is undisputed that they did not travel to or from Louisiana.

ETC hires all crew members through the Manpower Coordinator at Seafarers International Union Headquarters ("SIU") located in Piney Point, Maryland. Ricord was hired to work as an unlicensed crew member on ETC vessels through the SIU on fifteen different occasions between 1981 and 1991.² When ETC needed seamen, it would contact the SIU in Maryland. Ricord was hired by this process when the SIU, to fill the hiring needs of ETC, contacted Ricord through a hiring hall in Louisiana. Ricord's contract of employment with ETC consisted of shipping articles which were signed and executed in Japan; no contract of employment was signed or negotiated in Louisiana. All travel arrangements for

¹ Ricord died in 1993, and his succession was substituted as a plaintiff in this suit.

² Article III, § I of ETC's collective bargaining agreement with the SIU provides: "The union agrees to furnish the company with qualified, physically fit unlicensed personnel having the required rating, when and where they are required by the company."

seamen such as Ricord were made through ETC's travel agent in New York. The only other peripheral "contacts" ETC had with Louisiana are as follows: 1) ETC pays the costs incurred by hired seamen in Louisiana when they are examined by a doctor there for claims and, 2) ETC employees' paychecks are mailed to Louisiana upon the employees' requests. Ricord argues that this creates sufficient contacts with Louisiana to confer personal jurisdiction. We agree with the district court that these limited "contacts" are insufficient.

DISCUSSION

The burden of establishing the district court's personal jurisdiction over ETC rests with Ricord. Jones v. Petty-Ray Geophysical Geosource, Inc., 954 F.2d 1061, 1067 (5th Cir.), cert. denied, 113 S. Ct. 193 (1992). Only a *prima facie* case must be established and any genuine material conflicts must be resolved in Ricord's favor. Id.

As we stated in Jones:

[t]wo preconditions generally must be satisfied to allow personal jurisdiction over nonresident defendants served out of state: (1) the nonresident must be amenable to service of process under the forum state's long-arm statute (an issue that is governed by the law of the forum state); and (2) if the state jurisdictional test is met, the assertion of jurisdiction over the non-resident must be consistent with the Fourteenth Amendment due process clause.

Id.

The Louisiana Long-Arm Statute, as amended, extends long-arm jurisdiction of Louisiana courts to the limits allowed by due process. LA. REV. STAT. ANN. § 13:3201(B) (West 1991). Accordingly, we need only consider whether personal jurisdiction over ETC satisfies federal constitutional standards. The "constitutional touchstone" of the Due Process Clause requires that the defendant purposefully established minimum contacts in the forum state so that maintenance of the suit does not offend "traditional notions of fair play and substantial justice." Asahi Metal Indus. Co. v. Superior Court of Cal., 107 S. Ct. 1026, 1030, 1033 (1987) (citations omitted). Because Ricord's cause of action did not arise out of or relate to ETC's activities in Louisiana in order to meet specific jurisdiction, the question is whether general jurisdiction exists. See Helicopteros Nacionales De Colombia v. Hall, 104 S. Ct. 1868, 1872-73 (1984).

To satisfy general jurisdiction, ETC's contacts with Louisiana must be "continuous and systematic." Id. The fact that injured ETC seamen occasionally are given medical services by Louisiana doctors who are paid by ETC, and that employees are permitted to have their paychecks sent to Louisiana cannot be deemed the "continuous and systematic" contacts by which ETC would expect to submit to Louisiana jurisdiction. The crew information card proffered by Ricord, which states that Ricord's "port engaged" was New Orleans, also does not demonstrate

sufficient contact with Louisiana. According to the personnel manager of ETC, "port engaged" refers only to the location in the United States from which the hired seamen, who are initially contacted through the SIU headquarters in Maryland, departs for the vessel to travel to Japan. In short, employment is offered to SIU union members by the SIU manpower pool in Maryland, and seamen are then offered to ETC. For all practical purposes, Ricord was located through the union in Maryland and was "hired" when he signed his shipping papers in Japan; the fact that he embarked from Louisiana is not significant.

Ricord argues that according to Louisiana law as set forth in Marullo v. Zuppardo, 454 So.2d 268, 270 (La. Ct. App. 1984), a nonresident defendant acting directly through an agent is subject to personal jurisdiction. But Marullo is distinguishable from the present case. Even if the union was an "agent" or contractor of ETC, ETC only requested seamen through the Maryland location and did not direct the union to achieve a purpose in Louisiana. That personal jurisdiction in Maryland might exist is arguable,³ but jurisdiction cannot be extended to every location that the SIU contacted from Maryland, without any involvement on the part of ETC.

AFFIRMED.

³ See Bass v. Energy Transp. Corp., 787 F.Supp. 530, 536-37 (D. Md. 1992) (finding personal jurisdiction existed over ETC in Maryland because SIU trained, brokered, and consistently had contact with ETC employees in Maryland).