

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5452
No. 93-5611
Summary Calendar

JUSTISS OIL COMPANY, INC.,

Plaintiff-Appellee,

VERSUS

PHILLIPS PETROLEUM COMPANY, INC.,

Defendant-Appellant.

Appeal from the United States District Court
for the Western District of Louisiana
(89-CV-915)

(April 5, 1994)

Before GARWOOD, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

This diversity action was tried to the court. The court entered a comprehensive, twenty-one page opinion awarding damages to Justiss Oil Company, Inc., against Phillips Petroleum Co. and making findings supporting a lack of negligence or imprudent drilling procedures by Justiss. We affirm for the reasons stated by the district court.

* Local Rule 47.5.1 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 Pursuant to that rule, the court has determined that this opinion should not be published.

There is no dispute as to the law or the parties' obligations under the contract. Phillips's primary factual contention is that Justiss erred in (1) failing to stop drilling after the break, (2) not stopping the drilling in time to prevent damage, once the well started "kicking;" and (3) failing to shut in the well timely. The district court carefully examined the conflicting testimony on these matters and determined that Justiss acted properly. We do not conclude that these findings are clearly erroneous.

Phillips also challenges the imposition of a post-judgment rate of interest of twelve percent. Phillips presents no real argument on this issue, so we could deem it waived. We note, however, that the contract provides for a twelve percent rate on unpaid balances, so there is no indication that the district court erred.

The judgment is AFFIRMED.¹

¹ In No. 93-5611, Phillips appeals the award of attorneys' fees, but it has not briefed that issue or shown how the fees are in error. Accordingly, we AFFIRM as to No. 93-5611.