

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-7162

JIM EDMOND,

Plaintiff-Appellant,

versus

NEWMAN WHITNEY, ETC., ET AL., DEFENDANT
NEWMAN WHITNEY, ETC. AND MEMPHIS
MACHINERY AND SUPPLY CO., INC.,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
(CA 89 321 D D)

(August 5, 1994)

Before WIENER, EMILIO M. GARZA and BENAVIDES, Circuit Judges.

PER CURIAM:*

Having considered the briefs submitted by able counsel for the respective parties to this litigation, reviewed the record, and listened to oral argument of counsel, we are convinced that the district court's grants of judgments as a matter of law for

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Defendants-Appellees are free of reversible error. Irrespective of the reasons assigned by the district court, we conclude that Plaintiff-Appellant Edmond's inability to adduce any competent evidence that his injury was proximately caused by a defect in the design or manufacture of the machine in which his injury was sustained doomed his ability to recover. Edmond did not, presumably because he could not, testify as to the proximate cause of his accident; and the evidence he adduced - including, without limitation, his experts' testimony - did nothing to supply the necessary nexus between a defect in the machine and the proximate cause of the injury.

Absent that, Edmond simply failed to meet his burden of proof. We are constrained, therefore, to conclude that the judgments as a matter of law rendered by the district court should be and therefore are

AFFIRMED