

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-40346

Summary Calendar

ALFORD C. SAVOIE,

Plaintiff-Appellant,

versus

ARGOSY OFFSHORE, LTD.,

Defendant-Appellee.

Appeals from the United States District Court
for the Western District of Louisiana
(90-CV-526)

(August 29, 1994)

Before GARWOOD, HIGGINBOTHAM, and DAVIS, Circuit Judges.

PER CURIAM:*

Plaintiff Savoie, an oil rig worker, was injured on October 27, 1988 as he was getting onto the M/V Argosy Voyager, a crew boat owned and operated by defendant Argosy Offshore. He swung on a rope (a la Tarzan) from the platform to the boat. No guard rails were present on the landing deck, though Coast Guard regulations required guard rails or the equivalent. Kirk Bugbee, a deckhand,

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

was on the landing deck and caught Savoie without incident. Savoie claims that he later felt a burning sensation where his neck joins his back, and has sued for damages. The district court found that the deckhand was the functional equivalent of guard rails. It also found that Savoie had not proven any negligence or fault and that he had not even proven that an accident occurred causing injury to him. It therefore entered judgment for Argosy Offshore.

The district court's finding that Savoie had not borne his burden of proving causation was not clearly erroneous. The district court held that "Even if the Pennsylvania Rule applies to shift the burden to defendant to exonerate itself from fault, plaintiff could not prevail. . . . Rails, or the lack thereof, played no part in this alleged incident. The record establishes that defendant was not at fault in any way." RE, tab 2, at 9.

Savoie testified that he felt no pain in his back or neck at the time of the swing rope transfer. Three witnesses testified that the transfer went uneventfully. After the transfer, Savoie tripped over a board while walking to the deck house. Only after tripping did Savoie report pain. Furthermore, Savoie had been suffering from arthritis and a lower back injury long before the swing rope transfer. The district court's conclusion of no causation is not clearly erroneous, and we need not reach Savoie's other arguments. AFFIRMED.