

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60374
(Summary Calendar)

SIRISH N. SINHA,

Plaintiff-Appellant,

v.

NATIONAL CARGO BUREAU, INC.

Defendant-Appellee.

Appeal from the United States District Court
For the Southern District of Texas
(No. CA-G-93-169)

(March 31, 1995)

Before DUHÉ, WIENER, and STEWART, Circuit Judges.

PER CURIAM:*

Plaintiff-Appellant Sirish N. Sinha seeks review of a district court's judgment denying his motion for a judgment notwithstanding the verdict (jnov). Finding the record evidence to support the jury's verdict))no plain error))we affirm.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

I

FACTS AND PROCEEDINGS

Sinha, a marine surveyor, sued his employer, National Cargo Bureau, Inc. (NCB), alleging wrongful termination. The case was tried to a jury, which returned a verdict against Sinha. At trial, Sinha neither made a motion for a directed verdict nor objected to the jury instructions. After the jury returned a verdict in favor of NCB, Sinha made a motion for a jnov, which the district court denied. On appeal, Sinha claims that the district court erred in denying his motion for a jnov.

II

ANALYSIS

"According to Rule 50(b) of the Federal Rules of Civil Procedure, a party may only base a motion for jnov on a ground that he included in a prior motion for directed verdict at the close of all the evidence."¹ We have, however, construed the rule liberally and excused a party's failure to move for a directed verdict at the close of all of the evidence in certain limited instances, such as when a party (1) fails to reurge a prior motion for a directed verdict, or (2) objects to the court's jury instructions on the ground that there is insufficient evidence to support the claim. In the instant case, however, Sinha never moved for a directed verdict or objected in any manner whatsoever to the jury instructions. Consequently, his motion for a jnov lacks a proper

¹Hinojosa v. City of Terrell, Tex., 834 F.2d 1223, 1227-28 (5th Cir. 1988), cert. denied, 493 U.S. 822 (1989).

predicate, and "our review of the district court's denial of his motion[] for [jnov] . . . is extremely limited."²

When a motion for a jnov lacks a predicate, "`our inquiry in restricted to whether there was any evidence to support the jury's verdict, irrespective of the sufficiency, or whether plain error was committed which, if not noticed, would result in manifest miscarriage of justice.'"³ The instant record does contain evidence to support the jury's verdict, and Sinha has not demonstrated the existence of plain error. Accordingly, the district court's decision denying Sinha's motion for jnov is AFFIRMED.

²Id. at 1228.

³Id. (quoting Stewart v. Thiqpen, 730 F.2d 1002, 1007 (5th Cir. 1984) (emphasis in original)).