

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-60538
Summary Calendar

THOMAS ANTHONY BARRETT,

Plaintiff-Appellant,

versus

McALLISTER BROTHERS, INC.,

Defendant-Appellee.

Appeal from the United States District Court for the
Southern District of Mississippi
(1:94-CV-28 RR)

(April 27, 1995)

Before KING, JOLLY, and DeMOSS, Circuit Judges.

PER CURIAM:*

This Jones Act case presents the question whether the federal district court for the Southern District of Mississippi erred in its determination that McAllister Bros., a New York corporation that is neither licensed to do business nor does business in Mississippi, is beyond the reach of its personal jurisdiction. Thomas Barrett, a Mississippi resident, is suing McAllister Bros.,

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 Pursuant to that Rule, the court has determined that this opinion should not be published.

his employer, in personam, for damages as a result of injuries he sustained in New York waters.

McAllister Bros. supplies crews for vessels that are owned by McAllister Towing and Transportation Co., Inc., and McAllister Maritime Tugs, Inc., corporate entities that are entirely separate from McAllister Bros. (The appellant does not argue that the identities of these separate corporate entities should be disregarded.) These vessels are operated pursuant to time charters.

The parties agree that the Mississippi long-arm statute, Miss. Code Ann. § 13-3-57, defines the reach of the district court in this case. By its provisions, McAllister is only within reach of the district court if (1) it commits a tort in Mississippi, or (2) enters into a contract to be performed at least in part in Mississippi, or (3) it did business or performed any character of work or service in Mississippi. Sorrells v. R & R Custom Coach Works, 636 So.2d 668, 671 (Miss. 1994). Taking these possible bases of personal jurisdiction in order, it is clear that none of them is met. First, it is clear that the tort giving rise to Barrett's claim occurred in New York. Second, the contract of employment between Barrett and McAllister Bros. was entered into in New York and does not contemplate performance in Mississippi. Finally, McAllister Bros. does not do business or perform any character of work or service in Mississippi. To the extent the

vessels had some contact with Mississippi, they did so under the direction of the charterer and not McAllister Bros.

In addition, to the extent we might harbor some doubt as to the applicability of Mississippi's long arm statute, it is clear that the Mississippi court's exercise of personal jurisdiction would not comport with the "minimum contacts/purposeful/activities/foreseeability/basic fairness formulation of due process." Id. at 672 (quoting Administrators of the Tulane Educ. Fund v. Cooley, 462 So.2d 696, 704 (Miss. 1985)). It is clear that McAllister's contacts with the Mississippi are too remote and isolated to bring it within the general personal jurisdiction of the district court. And the mere offering by McAllister Bros. of its crews for employment by a charterer, with the knowledge that they might come into contact with Mississippi, is insufficient to support the exercise of specific jurisdiction over this case. Id. at 674; see also Burger King Corp. v. Rudzewicz, 471 U.S. 462, 472-73, 105 S.Ct. 2174, 2182 (1985).

In sum, the district court correctly concluded that neither general nor specific personal jurisdiction over the defendant exists in this case. Accordingly, the judgment of the district court dismissing this case for lack of personal jurisdiction is

A F F I R M E D.