

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 17-3397

QUITMAN ROBINSON

v.

NEW JERSEY TRANSIT RAIL OPERATIONS, INC.;
JANE DOE 1-100

New Jersey Transit Rail Operations, Inc.,
Appellant

(D.N.J. No. 2-14-cv-02679)

Present: McKEE, RESTREPO, and FUENTES, Circuit Judges

ORDER GRANTING PANEL REHEARING SUA SPONTE
AND JUDGMENT ORDER

On January 29, 2019, a panel of this Court (“Panel”) issued a decision (“Decision”) reversing the district court’s order of October 19, 2017, that had denied a motion by New Jersey Transit Rail Operations, Inc. (“NJ Transit”) to vacate a judgement entered in favor of Quitman Robinson (“Robinson”) in the amount of \$824,152.59. The Panel held that NJ Transit had sovereign immunity from plaintiff’s claims that had been brought under the Federal Employers Liability Act, 45 U.S.C. § 51, et seq. (“FELA”). Robinson filed a petition for rehearing and/or rehearing en banc. On March 12, 2019, NJ Transit filed a motion to hold the case in abeyance while the parties discussed a global settlement. By order entered March 15, 2019, the case was held in abeyance.

On June 26, 2019, New Jersey P.L.2019, c. 137 was enacted (“Act”), which provides that NJ Transit may not assert sovereign immunity as a defense to claims arising under certain federal statutes, including FELA. The Act was effective immediately and, by its terms, applies to actions against NJ Transit pending in any court of appeals, which would include this matter. In light of the passage of the Act, NJ Transit no longer possesses sovereign immunity from the claims Robinson has asserted against NJ Transit. Accordingly, it is hereby O R D E R E D that panel rehearing in this matter is granted sua sponte. The prior opinion and judgment are hereby VACATED. In light of the action by the panel appellee’s petition for rehearing and/or rehearing en banc is dismissed as moot.

It is further O R D E R E D that the judgment in favor of plaintiff in the amount of \$824,152.59 is affirmed by this Court, and the matter is remanded to the district court.

By the Court,
s/ L. Felipe Restrepo
Circuit Judge

Dated: August 29, 2019
cc: All Counsel of Record