

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

January 25, 2013

No. 13-30102

Lyle W. Cayce
Clerk

In re: ANTILL PIPELINE CONSTRUCTION CO., INC.

Petitioner

Petition for a Writ of Mandamus to the United States
District Court for the Eastern District of Louisiana

Before JONES, DENNIS, and HAYNES, Circuit Judges.

PER CURIAM:*

Petitioner Antill Pipeline Construction Co., Inc. (Antill) petitions this Court for an emergency writ of mandamus to stay proceedings below while it pursues an interlocutory appeal against the district court’s dismissal of several defendants from his limitation of liability suit pursuant to the Shipowners’ Limitation of Liability Act, 46 U.S.C. § 30505. Mandamus is available only in those circumstances where there is a “clear and indisputable abuse of discretion or usurpation of judicial power by the trial court.” *In re Cajun Elec. Power Cooperative, Inc.*, 791 F.2d 353, 365 (5th Cir. 1986). The case was initially scheduled for trial on October 31, 2011. Antill filed a motion for leave to file a third-party complaint against a new defendant, Hanko Metal Works, Inc., on August 24, 2011. The district court granted the motion and continued trial.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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Although Hanko filed its answer on December 2, 2011, Antill did not depose Hanko's corporate representative until August 16, 2012. On May 21, 2012, Antill filed a separate suit against two additional defendants, the estate of William Voss and W&T Offshore, Inc., and then untimely moved to consolidate the two proceedings on June 20, 2012, further delaying the proceedings. Nonetheless, the court granted Antill's motion for consolidation. Trial was set for January 28, 2013. Although the district court issued its order dismissing several defendants, including Hanko Metal Works, Voss' estate, and W&T Offshore on December 6, 2012, Antill waited until January 21, 2013—one week prior to trial—to file its motion for stay. Although the district court promptly denied this motion on January 22, 2013, Antill did not file its motion for mandamus until January 24, 2013, a mere four days—less than two business days—before trial was set to begin. Antill's petition, if granted, would further delay a trial that Antill has already caused to be delayed numerous times. Under these circumstances we cannot say that the district court clearly abused or usurped its judicial power in denying the petitioner's motion for continuance and stay of the proceedings.

The petition for writ of mandamus is DENIED.

Judge Jones would grant the petition.