

NOT RECOMMENDED FOR PUBLICATION

File Name: 21a0383n.06

No. 18-5942

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

**FILED**  
Aug 13, 2021  
DEBORAH S. HUNT, Clerk

In re: AMAZON.COM, INC., Fulfillment Center )  
Fair Labor Standards Act (FLSA) and Wage and )  
Hour Litigation, )  
\_\_\_\_\_ )

NEAL HEIMBACH; KAREN SALASKY, )  
Plaintiffs-Appellants, )

v. )

AMAZON.COM, INC.; AMAZON.COM DEDC, )  
LLC; INTEGRITY STAFFING SOLUTIONS, )  
INC., )

Defendants-Appellees. )  
\_\_\_\_\_ )

ORDER

ON APPEAL FROM THE  
UNITED STATES DISTRICT  
COURT FOR THE WESTERN  
DISTRICT OF KENTUCKY

BEFORE: DAUGHTREY and GRIFFIN, Circuit Judges.\*

Amazon warehouse workers filed this putative class action against Amazon.com, Inc., and its affiliates, seeking compensation under the Pennsylvania Minimum Wage Act (“PMWA”) for time spent undergoing mandatory security screenings after their shifts. The district court granted summary judgment in defendants’ favor, holding that this time was not compensable under that state statute. *In re Amazon.com, Inc., Fulfillment Ctr. Fair Labor Standards Act (FLSA) and Wage*

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\*This order is entered by a quorum of the panel. 28 U.S.C. § 46(d). Judge Merritt, who was previously assigned to this case, did not participate in this decision.

*and Hour Litig.*, No. 3:14-cv-204, 2018 WL 4148856, at \*3 (W.D. Ky. Aug. 30, 2018). Plaintiffs appealed and we certified the following two questions to the Pennsylvania Supreme Court:

- (1) Is time spent on an employer’s premises waiting to undergo and undergoing mandatory security screening compensable as “hours worked” within the meaning of the Pennsylvania Minimum Wage Act, 43 Pa. Cons. Stat. § 333.101 et seq.?
- (2) Does the doctrine of *de minimis non curat lex*, as described in *Anderson v. Mt. Clemens Pottery Co.*, 328 U.S. 680 (1946) and *Sandifer v. U.S. Steel Corp.*, 571 U.S. 220 (2014), apply to bar claims brought under the Pennsylvania Minimum Wage Act, 43 Pa. Cons. Stat. § 333.101 et seq.?

*In re Amazon.com, Inc.*, 942 F.3d 297, 304 (6th Cir. 2019). The state court answered that “time spent on an employer’s premises waiting to undergo and undergoing, mandatory security screening constitutes ‘hours worked’ under the PMWA; and there exists no *de minimis* exception to the PMWA.” *In re Amazon.com, Inc.*, — A.3d —, 2021 WL 3059773, at \*1 (Pa. July 21, 2021).

The district court’s decision is inconsistent with the Pennsylvania Supreme Court’s decision. Accordingly, we vacate the district court’s judgment and remand for further proceedings in light of the Pennsylvania Supreme Court’s decision.

ENTERED BY ORDER OF THE COURT



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Deborah S. Hunt, Clerk