

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

United States Court of Appeals
Fifth Circuit

FILED

October 8, 2009

No. 09-40414
Summary Calendar

Charles R. Fulbruge III
Clerk

DAVE JORDAN,

Plaintiff - Appellant

v.

APACHE CORP; ISLAND OPERATING COMPANY INC.,

Defendants - Appellees

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 3:07-CV-58

Before REAVLEY, JOLLY, and OWEN, Circuit Judges.

PER CURIAM:*

The judgment of the district court is affirmed. The plaintiff has failed to raise an issue of negligence by either Apache or Island Operating. Counsel would charge these defendants with a legal duty to foresee all of the circumstances that led the plaintiff to carry the toolbox and to take action to guard against any injury to him. The failure to do this, or to publish a policy requiring it, cannot be said to be unreasonable or violation of duty to Mr. Jordan. **AFFIRMED.**

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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