

ROBERT MCINNIS * **NO. 2003-CA-1053**
VERSUS * **COURT OF APPEAL**
PARKER DRILLING * **FOURTH CIRCUIT**
COMPANY AND STONE * **STATE OF LOUISIANA**
ENERGY CORPORATION *
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APPEAL FROM
CIVIL DISTRICT COURT, ORLEANS PARISH
NO. 2001-13692, DIVISION "G-11"
Honorable Robin M. Giarrusso, Judge

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Charles R. Jones
Judge

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(Court composed of Judge Charles R. Jones, Judge James F. McKay III, and Judge Dennis R. Bagneris Sr.)

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AFFIRMED

The appellant, Robert McInnis appeals the judgment of the district court granting summary judgment in favor of Stone Energy Corporation, (hereinafter “Stone Corp.”) finding that as a matter of law, the corporation could not be held negligent for the accident, which forms the basis of this litigation. We affirm the judgment of the district court.

On April 23, 2001, Robert McInnis was a floor hand working for Parker Drilling Company (hereinafter “Parker Co.”) on a Parker Co. rig off the coast of Louisiana. This Parker Co. rig was attached, temporarily, to a Stone Corp. fixed platform.

Mr. McInnis was ordered by his immediate supervisor, Parker Co. driller John Brown to bring tong heads that belonged to Parker Co. to the drill floor. Once it was discovered that the tong heads were the wrong size due to a Stone Corp. ordering error, Mr. McInnis was then ordered by the Parker Co. driller to move the tong heads off the rig floor. As Mr. McInnis moved the tong heads, he tripped on a kick plate located on the Parker Co. rig, not the Stone Corp. platform. Mr. McInnis sustained a lumbar injury and had a two level lumbar fusion.

Appellant/Plaintiff Mr. McInnis filed suit against Parker Co. and Stone Corp. on August 22, 2001. The case was removed to the United States District court for the Eastern District of Louisiana on September 24, 2001. By order dated March 21, 2002, the case was remanded to State court.

Stone Corp. filed its Motion for Summary Judgment on December 19, 2002. The motion and opposition were heard on February 14, 2003. The district court granted Stone Corp.'s motion, and on February 21, 2003, designated the ruling as final and entered judgment dismissing Mr. McInnis' claims against Stone Corp. with prejudice. This judgment forms the basis of Mr. McInnis' appeal.

Our appellate courts review Summary Judgment *de novo* under the same criteria that governs the district's consideration of whether Summary Judgment is appropriate. *Smith v. M. Randall Comeaux, D.D.S.*, 2003-250 p.1 (La.App.3 Cir. 10/22/03), 857 So.2d 1287, 1289. Therefore, we shall render summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue regarding a material fact and that the mover is entitled to judgment as a matter of law. *Id.*; *see also* La.C.C.P art. 966.

Mr. McInnis' accident occurred on a fixed platform off the coast of Louisiana on the Outer Continental Shelf; therefore, his cause of action

against Stone Corp. arose under the Outer Continental Shelf Act. *See* 43 USC § 1331, *et seq.* Under that Act, the law of the adjacent state is surrogate to federal law. Therefore, Louisiana's state law governs Mr. McInnis' action for negligence against Stone Corp.

In adjudicating issues of injury aboard off-shore rigs, however, this Circuit has adopted the jurisprudential framework of *Wallace v. Oceaneering International*, 727 F.2d 427 (5th Cir. 1984), which held that an operating principal who hires independent contractors over which he exercises no operational control has no duty to discover and remedy hazards created by its independent contractors. *Smith v. Two "R" Drilling Company, Inc.*, 606 So.2d 804, 813 (La.App.4 Cir. 1992) (using *Wallace* analysis to make determination of operator liability).

In *Smith*, the operator-oil company argued on appeal that the jury's finding of its liability was manifestly erroneous as there was no evidence of the operator's involvement in the incident sued upon. This Court agreed that *Wallace* was the controlling law, but found that the presence of an operator-oil company employee aboard the rig who was allegedly responsible for safety procedures utilized on the rig was enough to support the jury finding of liability. *Id.*

However, in the case at bar, the record indicates that Mr. McInnis was

a Parker Co. employee, injured aboard a Parker Co. platform, as a result of an order made by and under the supervision of another Parker Co. employee. There is no evidence in the record that suggests that Stone Corp. assumed responsibility for the platform safety of Parker Co.

In addition, although Parker Co. argues contractual assumption of duty on the part of Stone Corp., the Domestic Daywork Drilling Contract between the parties clearly provides in Section 903, entitled Contractor's Personnel, that:

Contractor shall be responsible for and hold harmless, indemnify and release Operator from and against all claims, demands and causes of action of every kind and character arising in connection herewith in favor of Contractor's Personnel or Contractor's Invitees, on account of bodily injury, death or damage to property.

Finally, Parker Co. argues that Stone Corp.'s incorrect ordering of the tong heads, which Mr. McInnis was carrying when he tripped, establishes negligence on the part of Stone Corp. despite its jurisprudential and contractual exemption from liability. We disagree. The scope of the risk involved in the breach of the duty to order the right size casing does not encompass the chance that Parker Co. may volunteer without Stone Corp.'s

knowledge to have one man carry a 150 pound tong head without using a crane or without enlisting the assistance of another deck hand. *Pitre v. Opelousas General Hospital*, 530 So.2d 1151 (La. 1988) (legal cause limited by foreseeability of risk of harm; *see also Fowler v. State Farm Fire & Cas.* 485 So.2d 168 (La.App. 1986), *writ denied* 487 So.2d 441 (La. 1986) (forgetting house key thereby locking homeowner and guest out on balcony was not legal cause of harm where guest jumped to avoid waiting for others to arrive). There is insufficient connexity or ease of association between the incorrect ordering and Mr. McInnis' injury. Therefore, we find no negligence on the part of Stone Corp., and affirm the judgment of the district court.

For the forgoing reasons, this Court affirms the judgment of the district court granting summary judgment in favor of Stone Energy Corporation.

AFFIRMED