

Case Name: Michael Shane Campbell v. CSX Transportation

Date Decided: August 25th, 2009

Originally Filed in: ()

Decided by: (State)

Court: U.S.D.C. Southern District of Ohio

Judge: Judge Barrett

Citation: 2009 WL 2709280 (S.D.Ohio)

Background:

Plaintiff, Michael Shane Campbell ("Campbell"), filed a claim alleging defendant, CSX Transportation ("CSX") violated the Federal Employers' Liability Act ("FELA") and the Locomotive Inspection Act ("LIA"). Campbell began working for CSX as a remote control operator. Campbell's duties involved moving cars and locomotives around the rail yard via a remote control device. Campbell used a remote control unit that was clipped to a vest, the box weighed about 7 pounds. The box, along with the vest were referred to as "the harness". Campbell experienced back pain from the very first day of working with the harness. At the time, Campbell described the pain as a "minor irritation" and that it was a typical complaint from employees who worked with the harness. Campbell waited around a year before he saw a doctor. Campbell visited his family doctor who noted that he had back pain that was 'temporally related to work belt over shoulder at work'. The doctor gave Campbell some treatment and released him with permission to work with a belt instead of the harness while working. Campbell was unable to use the belt because it was "unavailable". Because Campbell was required to use the harness again, the pain became unbearable and Campbell claimed his "knees buckled and his hand went numb". According to Campbell, CSX only allowed use of the belt when medically necessary. However, CSX contended that the belt could be ordered and used by the employee based upon their preference. CSX moved for summary judgment.

Issue:

Did the Court grant CSX's motion for summary judgment precluding Campbell from asserting his FELA claims?

Overall Issues Discussed or Touched Upon in this Case:

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Held:

CSX argued that Campbell admitting to back pain immediately after he begun using his harness, and had also reported to his Doctor on October 12, 2004 that he had been experiencing back pain for 18 months. This Court found that Campbell had testified the pain he sought treatment for was different on October 12, 2004, therefore Campbell's filing on October 9, 2007 falls within the 3-year statute of limitations under FELA. Further, CSX

attacked the elements Campbell is required to establish to make a successful FELA claim. First CSX argued that because no witness testified that Campbell's work with the harness breached its standard of care than he failed to present evidence supporting a breach. However, this Court found that CSX failed to provide Campbell with an alternative to the harness and that there's evidence back pain is a typical employee complaint. This Court found that Campbell presented enough evidence that CSX's failure to provide Campbell with an alternative to the harness, caused his back injury. Campbell's doctor attributed his injury to the harness. Moreover, Campbell had testified that he had back pain which was attributed to use of the harness. Accordingly the Court denied CSX's motion for summary judgment on Campbell's FELA claims. Campbell failed to respond to CSX's arguments made in its Motion for Summary Judgment for the Locomotive Inspection Act claim and therefore this Court found it abandoned

Comments:

Under FELA, a plaintiff must file a claim within 3 years of discovering or should have discovered the injury. Failure to do so bars a claim under FELA. Steve Gordon
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