

Case Name: Scott Raab v. Utah Railway Company

Date Decided: September 18th, 2009

Originally Filed in: ()

Decided by: (State)

Court: Supreme Court Utah

Judge: Judge Durrant

Citation: 2009 WL 2971868 (Utah)

Background:

Plaintiff, Scott Raab ("Raab"), conductor, brought an action under the Federal Employers Liability Act ("FELA") and Federal Locomotive Inspection Act ("FLIA") against railroad, Utah Railway Company. Raab was injured when he struck his head on after-market air condition unit installed in a trailing locomotive unit. Raab was working as a conductor when the engineer stopped a train to remove "helper" engines that had been coupled in the middle of the line of cars to aid the train in climbing a summit. At the time he stopped the train, the engineer thought the train's leading locomotive in the front had a malfunctioning brake. Raab entered into the locomotive and once he straightened up from crouching down he drove his head upward against an air conditioner and suffered a herniated disk in his neck and upper back. Raab sued Utah Railway to recover damages, under FELA for Utah's negligence in allowing its train to be led by a locomotive with a defective brake (causing him to inspect the locomotive in the first place) and under the FLIA claiming that Utah violated the statute by using the locomotive when the positioning of the air conditioner made the locomotive unnecessarily dangerous. Utah moved for summary judgment alleging that the brake failure was not a proximate cause of Raab's injuries and against the FLIA claim because Utah had not violated the statute. The district court granted Utah's motion for summary judgment and Raab appealed.

Issue:

Did the district court err in granting Utah's motion for summary judgment holding, as a matter of law, that Raab's FELA and FLIA claims were not actionable?

Overall Issues Discussed or Touched Upon in this Case:

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Held:

Raab argued that under the US Supreme Court's decision in *Rogers v. Missouri Pacific Railroad Company Co.*, summary judgment on causation is inappropriate so long as a reasonable jury could conclude that Utah played any part even the slightest in causing his injuries. Raab contended that because his injury would not have occurred absent the engineer's decision, due to his concern of a malfunctioning brake, that there is sufficient evidence of causation to defeat summary judgment. Utah countered arguing that Raab's

contention required him to prove "but for" while ignoring the "proximate" causation requirement. Utah argued that Rogers did not eliminate the general requirement that a FELA negligence plaintiff prove proximate causation and that under normal common law standards summary judgment is justified because Raab's injuries are too remote from the alleged failure of the brake. This Court found that Rogers did not speak the issue of proximate cause. This Court held that Rogers applies to the unavailability of contributory negligence as a defense in FELA cases. Therefore this Court examined what the proper standard of proximate causation is under FELA and evaluate Raab's claim under the standard. Accordingly this Court found that under the appropriate rule, the failure of the dynamic brake was a proximate cause of Raab's injuries. The proximate causation standard, under FELA, requires the conclusion that employer negligence played any part, even the slightest, in producing the injury or death for which damages are sought. Also supporting this finding is the fact that Raab was injured when, as a result of the malfunctioning dynamic brake, he was required to assist the engineer in resetting the locomotive controls. Also, Utah argued, at trial, that it was entitled to summary judgment on the FLIA claim because the air conditioning unit was functioning correctly, regardless of its location. Utah relied on the fact that FLIA is only violated when a locomotive part or appurtenance is not functioning as intended. On appeal, Utah admitted the air conditioning unit was placed dangerously but that Raab had a duty to exercise reasonable care upon entering the locomotive without injuring himself. Utah believed that the "unnecessary danger" provision of FLIA is violated only when a worker, exercising due care, could not have interfaced with or used the subject locomotive part or appurtenance without an unnecessary risk of injury. This Court found that, although the evidence may establish a person exercising ordinary care may enter the locomotive safely, it does not speak to the determinative question of whether the location of the air conditioning unit created an unnecessary danger of personal injury. Accordingly, this Court found that there was a genuine issue of material fact whether the placement of the air conditioning unit created an unnecessary risk of injury. Also, the Court held that the evidence presented could lead a jury to reasonably conclude that the placement of the air conditioning unit led to Raab's injury. This Court reversed the lower court's granting of Utah's motion for summary judgment.

Comments:

The FLIA is a railroad safety statute that expressly defines prohibited conduct but does not create a cause of action for its violation. However, the Supreme Court has held that violations of FLIA are actionable as negligence per se under FELA. FLIA requires that a railroad may use or allow to be used a locomotive or tender on its railroad line only when the locomotive and its part and appurtenances are

1. In proper condition and safe to operate without unnecessary danger of personal injury
2. Have been inspected as required under regulations prescribed by the Secretary of Transportation and
3. Can withstand every test prescribed by the Secretary.

Liability under FELA is absolute upon (1) proof of a violation of FELA and (2) proof that the FLIA violation was the cause of the injuries suffered. Steve Gordon