

Hudson v. Jarrett

Virginia Supreme Court

January 14, 2005

This is another in the long series of cases drawing the lines between who is and who is not a statutory for the purposes of the Workers Compensation Act bar.

The plaintiff is a longshoreman, and was working unloading a barge. The defendant is another longshoreman who was unloading a different barge owned by a different company at the same terminal. The two worked for different stevedoring companies. There was an accident involving vehicles that the two were operating, and the plaintiff sued the defendant, who filed a plea in bar of the Act. The trial court granted the plea in bar, and the plaintiff appealed. The trial court's ruling was based on the fact that both of the stevedoring companies for which the two participants worked were subject to the jurisdiction of the owner of the premises, Virginia International Terminals, who in turn operated the port where the accident occurred under a lease from the Virginia Port Authority. The theory was that Virginia International Terminals was similar to a general contractor, and that each of the two stevedoring companies were similar to subcontractors, and therefore their employees were statutory employees and could not sue each other.

Justice Lacy wrote the opinion, and the Virginia Supreme Court reversed. The key here was the relationship between VIT and the two barge owners, or between VIT and the two stevedoring companies. There were contracts between the barge owners and VIT, and between the stevedoring companies and VIT, but these all governed work rules. Nowhere was there a contract purporting to require VIT to unload the barges. In the absence of such a contract, VIT was not a general contractor, and the two stevedoring companies were not subcontractors, and therefore the two longshoremen were not statutory employees.