Are All Floating Structures Vessels?

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Why Does Vessel Status Matter?

- Seamen vs. Longshoremen
  - Injured seaman may bring negligence action against employer under Jones Act of 1920.
  - Longshoremen limited to state workmen’s compensation benefits under Longshoremen and Harbor Workers Compensation Act.

- Jones Act and LHWCA are mutually exclusive.
To qualify for seaman status:

- Contribute to the function of a vessel or the accomplishment of the vessel’s mission **and**
- Have an “employment-related connection to a vessel in navigation” which is substantial in both duration and nature.
Stewart v. Dutra Construction Co.

- In 1993, Willard Stewart injured while working on Super Scoop.
- Large floating platform which operates as dredge with clamshell bucket.
- Has navigation lights, ballast tanks, and dining area.
Super Scoop
Was Stewart a Seaman?

- District Court and First Circuit ruled that Stewart was not a seaman because *Super Scoop* not a vessel.
- Stewart barred from pursuing Jones Act negligence claim.
- Appealed to the Supreme Court
Vessel Status

1 U.S.C. § 3

- The word “vessel” includes “every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.”

Special Purpose Structures

- Submersible drilling barges and mobile drilling barges – Yes
- Fixed offshore platforms, new vessels under construction, and floating work platforms – No
**Stewart Test**

“Under Sec. 3, a ‘vessel’ is any watercraft practical capable of maritime transportation, regardless of its primary purpose or state of transit at a particular moment.”
Super Scoop is Vessel

- Capable of Transportation
  - “Dredges serve a waterborne transportation function, since in performing their work they carried machinery, equipment, and crew over water.”
  - Watercraft is not ‘capable of being used” if permanently moored or otherwise rendered practically incapable of transportation or movement.”

- Moved workers and equipment around Boston Harbor
On Remand

- First Circuit found that:
  - Stewart’s work contributed to the performance of the Super Scoop’s mission and
  - His connection was substantial.

- Seaman for Jones Act purposes.

- Case remanded to District Court for further proceedings on liability, damages, etc.
Circuit Courts Post-Stewart

- Seventh Circuit
  - *Tagliere v. Harrah’s Illinois Corporation*
    - Floating casino moored to a pier for two years is a vessel.
    - No evidence that casino was “permanently” moored
Second Circuit

- *Uzdavines v. Weeks Marine*
- Bucket dredge is a vessel
- Limited capacity to move across the ocean floor by “walking” using cables
Fifth Circuit

- *Holmes v. Atlantic Sounding Co.*
- Holmes injured on BT-213, a 140-foot long and 40-foot wide floating dormitory moved by tugs.
- In 2005, ruled it was not a vessel.
- Reversed in light of *Stewart*
  - Practically capable of transporting equipment, personnel, and cargo
  - Vessel even though totally incapable of self-propulsion
Eighth Circuit

*Bunch v. Canton Marine Towing*

- Cleaning barge is a vessel even though
  - Moored to bottom of Missouri River by spud poles
  - Did not have propellers
  - Could not moved by itself
- Occasionally moved between banks of river
  - No evidence of permanent mooring
- “Near or at the outer limits of what this court would recognize as a vessel.”
Derrick Boat – Michigan District Court
Crane Platform – Penn. District Court
Casinos Not Vessels

- **M/V Belle of New Orleans**
  - Alabama district court
    - Permanently moored to dock with steel cables;
    - Received power and other utilities from shore;
    - Stationary at all times

- **M/V Crown Casino**
  - Texas district court
    - Indefinitely moored to land by lines tied to pilings
    - Received utilities from shore
    - Never been used in navigation since placement
Conclusions

- Under new test, any watercraft large enough to carry people, equipment, and/or cargo could be considered vessel.
  - Limiting factors – permanent mooring or taking out of service

- Ruling will likely increase number of injured workers who qualify for seaman remedies

- Carefully consider ramifications of a vessel determination and plan for all contingencies.
Questions????

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