

ORIGINAL

No. 19-5173

FILED
JUL 05 2019
OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

Johnny Kirkland — PETITIONER
(Your Name)

vs.

Huntington Ingal Incorporated RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals For the Fifth Circuit
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Johnny Kirkland
(Your Name)

124 Jefferson Street
(Address)

Cashberry Alabama 36432
(City, State, Zip Code)

251-362-4498
(Phone Number)

QUESTION(S) PRESENTED

- (1) Whether Huntington Ingalls Incorporation WAS negligence under vessel owner.
- (2) Whether my Underage Employment in 1971 documents can be pulled up in Ingalls under Hercules Armstrong Social Security number as evidence. That was my exhibit.
- (3) Whether the Statute of Limitation is time barred for my Underage Working claim.
- (4) Whether the United States District Court properly dismissed my case.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Johnny Kirkland, Plaintiff - Petitioner
124 Jefferson Street
Castleberry, AL 36432
2. Hunting Ingalls Incorporated is a wholly owned Subsidiary
of Huntington Ingalls Industries, INC, a publicly held
Corporation (NYSE: HII
C/OJ. General Counsel - Litigation
5220 River Road - Avondale, LA 70094
3. Richard P. Salloum, Lead Attorney for Defendant
Franke & Salloum, PLLC
P.O. Drawer 460
Gulfport, MS 39502
Telephone: 228-868-7070
Facsimile: 228-868-7090
4. Traci Castille, Attorney for Defendant
Franke & Salloum, PLLC
P.O. Box Drawer 460
Gulfport, MS 39502
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Facsimile: 228-868-7090

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TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
Angle v. Koopers Inc. 42 SO. 3d (Miss 2010)	5
Conrod v. Holder 825 So. 2d 16.18 (Miss 2002)	5
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STATUTES AND RULES

905b - Vessel Owner
 Miss Code Sec 71-1-17 - Child Labour Law
 15-1-49 - Discovery rule

OTHER

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

- reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was March 18, 2019.

No petition for rehearing was timely filed in my case.

A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 4/23/2019, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Child Labor Laws: restrict how old children must be to work, when they can work, and what jobs they can do. These laws are in place to ensure that children do not do any work that's dangerous or bad for their health, and to guarantee that children's focus remains on their education.

STATEMENT OF THE CASE

This case arises out of being hired in Huntington Ingalls Incorporated in 1971 as a underage minor, which I was 13 yrs old, where I was exposed to asbestos.

I worked under my cousin Hercules Armstrong social security number. In other words we shared social security numbers. Being a minor, we both thought it was just a number you to get in the vessel. I or my cousin didn't know any better. The vessel owner never check for proper ID. After the summer I went back to school. I went back to work in the shipyard in the year 1978. I asked the shipyard to pull up my records where I worked in 1971 as a minor, under my cousin social security number. They keep saying I only worked in 1978.

Therefore I am suing Huntington Ingalls INC under the ~~Dual Capacity~~ Doctrine in its capacity as vessel owner, and negligence (905b).

The vessel owner had a duty to keep minors off the vessel which the child or employee might reasonably be expected to remain in ignorance, and it should have been discovered by the exercise of just ordinary care. See *Scinda Steam Nav. Co, Ltd v. Santos*, 451 US 156 (1981). As a vessel owner the employer had a duty to warn of dangers because asbestos is a latent injury. The shipowners had actual knowledge that their was dangerous asbestos on the ship because they manufactured asbestos. See *Kathryn Swanson v. McDermott International INC*, 5th Cir, Louisiana.

The vessel owner or whoever was in charge breach the duty to check for proper ID. See *Muford INC v. Peterson*, 368 So. 2d 213 Miss. 1979, *Milgore v. Crown Liquors of Broward INC* 448 So. 2d (Fla 1984). As a minor the vessel owner should have watch out for minors by checking their ID because I didn't know any better and was hired on a vessel where there was hazardous asbestos fibers, and insulation in cleaning up the ship, rust grinding, sandblasting, and painting. A minor hired as a laborer in a construction site, and this was the proximate cause of my asbestos exposure. NO minor under the age of 14 may be employed in a mill, cannery, workshop, or manufacturing establishment under any circumstance (Miss code sec. 91-1-17.)

STATUTE OF LIMITATIONS

The statute of limitations does not start to run until there is a cause of action which accrues, in a personal injury case, or the discovery rule (Miss code section 15-1-49).

The Underage working is connected with the asbestos exposure which is a latent injury which doesn't start to run until a cause of action accrues. See *Owens-Illinois, Inc v. Edwards* 573 So. 2d 704 (Miss 1990) and *Angle v. Koopers INC*, 42 So. 3d (Miss 2010).

The United States District Court granted Summary Judgment to Huntington Ingalls Incorporation without any interrogations or deposition. See *Conrod v. Holder*, 825 So. 2d 16.18 (Miss. 2002). The United States District Court of Appeals Affirmed, (5th circuit). With the U.S. District Court.

REASONS FOR GRANTING THE PETITION

The reason for granting this Petition is for the United States Supreme Court to review the decision of the Appeal from the United States District Court on Underage Age Working, and asbestos exposure.

The results I expect is compensation for pain & suffering, medical, loss of earning, loss of family, psychological and emotional injuries, prejudice interest, and loss of enjoyment of Life.

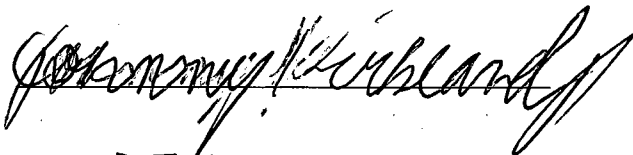
To the honorable judges, I Johnny Kirkland would appreciate the Granting of this Petition, because I was hired underage as a minor and have mesothelioma as being expose to asbestos. Nobody Protected me as a minor. If they had check me for proper I.D I would have never been on the vessel in the first place. I Didn't even know what a social security number was.

Asbestos is a very important issue, and Concern to the public because it is a deadly health problem that can be expose from person to person.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeffrey W. Kibland". The signature is written in a cursive style and is positioned above a horizontal line.

Date: July 2, 2019