

NO. 19-5173

IN THE  
SUPREME COURT OF THE UNITED STATES

JOHNNY KIRKLAND, Petitioner

v.

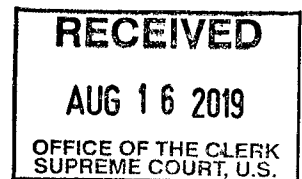
HUNTINGTON INGALLS INCORPORATED, Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE  
SUPREME COURT OF THE UNITED STATES

REPLY BRIEF

JOHNNY KIRKLAND  
124 JEFFERSON STREET  
CASTLEBERRY ALABAMA  
36432

251-362-4498  
cell number



*Johnny Kirkland*

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  
Castletown, AL 36432

2. Hunting Ingalls Incorporated is a wholly owned subsidiary of Huntington Ingalls Industries, Inc, a publicly held corporation (NYSE: HII)  
C/O J. General Counsel - Litigation  
5220 River Road - Avondale, LA 70004

3. Richard P. Salloum, Lead Attorney for Defendant  
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4. Tracy Castle, Attorney for Defendant  
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Johnny Kirkland

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## Statutes

905b - Vessel owner

71-1-17 - Miss Code Sec

15-1-49 - Discovery Rule

**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).

*Johnny Kurland*

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.

### STATEMENT OF THE CASE

This case arises out of being hired in Huntington Ingalls Incorporated in 1977 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 1977 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.

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. 91-19.)

## 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.



# ARGUMENT

## Misstatements in Respondent Opposition Brief.

IN MY medical records WAS A diagnose of asbestos, and in my medical Exerpts WAS A Pathology Report of Mesothelioma Diagnosis Dated 8/9/2016.

A QOSB claim is based on negligence. QOSB claims are for workers injured while providing land based services such as ship repair, maintenance, ship building, land or shore base work on a vessel and ships. Such ship or vessel owner negligence most often occurs where the ship has a dangerous condition or when situations the ship owner or one of the vessel crew was negligent, and such negligence caused or contributed to the injury of the worker. See Norfolk Shipbuilding & Drydock Corp. v. Garris, 532 U.S. 811, 818 (2001), and Revene v. Pintapi Enters, INC. 943 F.2d 528, 531 (5th Cir. 1991).

Huntington Ingalls won't pull my employment where I worked in 1971 as a minor under my cousin Hercules Armstrong social security number. My cousin is willing to testify. We both were minors who didn't know any better. I overheard other people in the office saying you have to be eighteen so I told them I was eighteen. I didn't know any better. That's the reason for employer's to check for proper I.D.

Date: ~~August 13, 2019~~

~~(Signature)~~

Respectfully submitted,

The petition for a writ of certiorari should be granted.

**CONCLUSION**