

LEGAL CASE CENTERS ON DIAGNOSIS OF SEAMAN'S LYMPHOMA AFTER HIS SERVICE HAD ENDED



Was a seaman entitled to benefits for being diagnosed with cancer after his service but which clearly existed during his time at sea? That was the question faced by both a district court and an appeals court. The man was a tugboat seaman hired by Bouchard Transportation, Inc. in March 2004. He was assigned to work on a Bouchard vessel for at least two three-week periods in September and October 2005. While in service of the tugboat, the man fell climbing a ladder and injured his back. The injury was evidently minor, but routine blood tests ordered during his examination found a high level of creatinine, which could be indicative of kidney failure or disease. He was treated for renal failure and in December was diagnosed with B-cell lymphoma. He was unable to return to work until October of the following year. He eventually sued, alleging negligence under the Jones Act, as well as unseaworthiness and maintenance and cure under general maritime law. Maintenance and cure was established for seamen who become ill or are injured at sea – maintenance covers basic living expenditures and cure is for medical expenses. Both sides cross-moved for summary judgment on maintenance and cure after the plaintiff abandoned the other claims. The district court acknowledged that the seaman's lymphoma was present during his service on the Bouchard tugboat, but found that he was not entitled to maintenance and cure because the diagnosis was two months after his service had ended. Summary judgment was rendered in favor of Bouchard. The appeals court disagreed. Appellate judges described maintenance and cure as a “far more expansive remedy” than workers' compensation. Its doctrine is decidedly broad, covering seamen for standard medical conditions, a prior illness that recurs while in the service of a ship or even an injury that occurs while on shore. A shipowner may very well be liable for an illness or injury due to a seaman's negligence – so long as it isn't a clear case of misconduct – or a seaman who's on shore leave. Judges further noted that an appeals court has never previously considered asymptomatic injuries, as a case with such a detail would generally not make it past a district court. This would likewise apply to an asymptomatic illness, one that hasn't yet shown obvious symptoms. Judges believed the district court misconstrued the appeals court's “imprecise language” from an earlier case. It had stated that a seaman whose injury or illness “manifests” itself (the same wording used by federal judges in this case) after employment isn't entitled to maintenance and cure – but this was only if the seaman couldn't show a causal link between the injury/illness and his service. The fact that the man's lymphoma was present while servicing the ship was never disputed in court. This, according to appellate judges, confirms the man's entitlement to maintenance and cure. The appeals court stated that the Supreme Court “explicitly” requires judges to consider maintenance and cure broadly, and limiting coverage for an illness after service is contrary to that directive. The district court's grant of summary judgment was reversed and remanded to award the plaintiff partial summary judgment regarding maintenance and cure. A later trial would determine the amount of compensation.