

73032-1

73032-1

No. 730321-1-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

ELSADIG AHMED,
Appellant,

v.

GLACIER FISH COMPANY, LLC,
Respondent,

On Appeal from the Superior Court of the State of Washington
for King County

The Honorable Samuel S. Chung

No. 13-2-23510-2 SEA

BRIEF OF RESPONDENT

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COURT OF APPEALS DIV I
STATE OF WASHINGTON

TABLE OF CONTENTS

	<u>Page</u>
A. INTRODUCTION	1
B. APPELLANT’S ASSIGNMENTS OF ERROR.....	1
C. STATEMENT OF THE CASE.....	2
1. Nature of Case.....	2
2. Trial Court Proceedings and Disposition.....	2
3. Statement of the Facts.....	3
D. ARGUMENT	7
1. The Unchallenged Findings are Verities.....	7
2. Ahmed Fails to Provide a Record Showing Error	7
3. The Trial Court Did Not Err in its Legal Conclusions.....	11
4. The Issue Raised on Appeal Are Frivolous	15
E. CONCLUSION.....	16
G. APPENDIX	
A-1. Findings of Fact, Conclusions of Law and Order of Dismissal (Clerk’s Papers (Sub No. 70) pp. 1377-1383)	17
A-2. Appellant’s Notice of Appeal (Clerk’s Papers (Sub No. 73) pp. 1439-1441)	25
CERTIFICATE OF SERVICE	29

TABLE OF AUTHORITIES

	<u>Page(s)</u>
Cases	
<i>Becwar v. Bear</i> , 41 Wn. 2d 37, 246 P.3d 1110 (1952)	9
<i>Bulzomi v. Dep't of Labor & Indus.</i> , 72 Wn. App. 522, 864 P.2d 996 (1994)	9
<i>Clausen v. Icicle Seafoods, Inc.</i> , 174 Wn.2d 70, 272 P.3d 827 (2012).....	11
<i>Cowiche Canyon Conservancy v. Bosley</i> , 118 Wn.2d 801, 828 P.2d 549 (1992)	10
<i>Durand v. HIMC Corp.</i> , 151 Wn. App. 818, 214 P.3d 189 (2009).....	10
<i>In re Marriage of Brewer</i> , 137 Wn. 2d 756, 976 P.2d 102 (1999).....	7
<i>In re Marriage of Olson</i> , 69 Wn. App. 621, 850 P.2d 527 (1993).....	10
<i>Lowe v. Double L Props., Inc.</i> , 105 Wn. App. 888, 20 P.3d 500 (2001).....	8
<i>Panorama Vill. Homeowners Ass'n v. Golden Rule Roofing, Inc.</i> , 102 Wn. App. 422,10 P.3d 417 (2000).....	7
<i>Pugel v. Monheimer</i> , 83 Wn. App. 688, 922 P2d 1377 (1996)	11
<i>Standing Rock Homeowners Ass'n v. Misich</i> , 106 Wn. App. 231, 23 P.3d 520 (2001), <i>review denied</i> , 145 Wn.2d 1008, 37 P.3d 290 (2001).....	8

TABLE OF AUTHORITIES (cont.)

	<u>Page(s)</u>
<i>State ex rel. Quick-Ruben v. Verharen</i> , 136 Wn.2d 888, 969 P.2d 64 (1998).....	15
<i>State v. Sisouvanh</i> , 175 Wn.2d 607, 290 P.3d 942 (2012).....	9
<i>State v. Wade</i> , 138 Wn.2d 460, 979 P.2d 850 (1999).....	7
<i>Talps v. Arreola</i> , 83 Wn. 2d 655, 521 P.2d 206 (1974).....	9
<i>Valley View Indus. Park v. Redmond</i> , 107 Wn.2d 621, 733 P.2d 182 (1987).....	7
<i>Ribitzki v. Canmar Reading & Bates, Ltd. Partnership</i> , 111 F.3d 658 (9th Cir.1997)	3, 12
<i>Gautreax v. Sculock Marine Inc.</i> , 107 F.3d 331, 335 (5th Cir. 1997)	12
<i>Schouweiler v. Western Towboat Co.</i> , 2007 U.S. Dist. Lexis 95217 (W.D. Wash. 2007).	12
Statutes	
RCW 4.84.010.....	3
46 U.S.C. § 30104 <i>et seq.</i>	2
Rules	
RAP 9.2, 9.9, 9.10.....	8
RAP 10.3(a)(4)	9
RAP 10.3(a)(6)	10
RAP 18.9(a)	14

A. INTRODUCTION

Appellant Elsadig Ahmed (“Ahmed”), who claims he suffered frost bite to his hands while working for Respondent Glacier Fish Company, LLC (“Glacier”), does not challenge the factual findings made or the conclusions of law reached during the bench trial of his case. Rather, Ahmed’s appeal raises complaints on how his lawyer presented his case at trial. This is not the proper forum to resolve these complaints. Without Ahmed showing any error by the trial court, his appeal should not be granted and the judgment of dismissal affirmed.

B. APPELLANT’S ASSIGNMENTS OF ERROR

Although not stated in his Opening Brief, Ahmed identifies the following complaints in his Notice of Appeal:

1. “My lawyer was not representing me well in front of the court.”
2. “[M]y lawyer refused to call all the witnesses I work with in the freezer hold[;] only one and did not call him to come in the court.”
3. “My lawyer did not provide me a translator and used defendant’s interpreter.”

4. “My lawyer called Jeff Ivie as a witness and never was I told about him. I only saw his name on the court decision as my witness.”
5. “I still have problem for frostbites on my fingers and carpal tunnel pain and numbness.”

CP 1441 (Notice of Appeal, attached hereto as Appendix A-2).

C. STATEMENT OF THE CASE

1. Nature of the Case

Ahmed, who worked as a fish processor aboard Glacier’s factory trawler vessel, claimed Glacier was negligent under the Jones Act, 46 U.S.C. § 30104 *et seq.*, and its vessel was unseaworthy. CP 1377 (Findings & Conclusions, attached hereto as Appendix A-1). Due to his claim that he lacked training and care in working in cold temperatures, Ahmed asserted liability based on that his fingers began to bother him while wearing gloves after performing normal processor duties in the freezer hold of the vessel. CP 1382, ¶4 (A-1, p. 23, ¶4).

2. Trial Court Proceedings and Disposition

This matter came for a bench trial from December 8, 2014, through December 11, 2014. CP 1377. Ahmed testified

and his lawyer called five other witnesses to testify. CP 1378 (A-1, p. 19). Due to a lack of evidence, the trial court dismissed Ahmed's unseaworthiness claim after the conclusion of his case.¹ CP 1377 (A-1, p. 18). Defendant then called seven witnesses. CP 1378 (A-1, p. 19)

On December 29, 2014, the trial court found in favor of Glacier and dismissed Ahmed's remaining claim for negligence under the Jones Act. CP 1383 ¶9 (A-1, p. 24, ¶9). The trial court found that Ahmed did not carry his burden that Glacier acted negligently. *Id.*, ¶8 (A-1, p. 24, ¶8). Pursuant to RCW 4.84.010 and CR 54, the trial court ordered an award of \$242.60 to Glacier for its costs. CP 1450-52.

3. Statement of the Facts

After hearing about opportunities in the fishing industry while living in Iowa, Ahmed went to Alaska to seek employment. CP 1378, ¶1 (A-1, p. 19, ¶1). He found work as a

¹ A vessel is unseaworthy if the vessel, or any of its parts or equipment, is not reasonably fit for its intended purpose. *Ribitzki v. Canmar Reading & Bates, Ltd. Partnership*, 111 F.3d 658, 664 (9th Cir.1997).

fish processor for two companies for several fishing seasons before Glacier hired him in 2010. Id.

In June 2010, Ahmed worked as a processor on Glacier's factory trawler vessel, F/V Pacific Glacier. CP 1378, ¶2 (A-1, p. 19, ¶2). Specifically, on June 23, 2010, Ahmed worked in the vessel's freezer hold, where boxes of processed fish are stacked and stored before they are unloaded. Id.

For workers in the freezer hold, Glacier made protective equipment available, and it required the workers to dress properly including wearing proper boots and gloves. CP 1378, ¶3 (A-1, p. 19, ¶3). Glacier also held safety meetings before each trip where managers/supervisors instructed crewmembers to leave the freezer hold and warm up if they became cold during an offload. CP 1379, ¶4 (A-1, p. 20, ¶4). Workers were told to change their gloves and to make sure their hands and feet are warm during the offloads. Id.

On or about June 23, 2010, after working several hours in the freezer, Ahmed complained to his shift supervisor about

pain and numbness in his fingers. CP 1379, ¶5 (A-1, p. 20, ¶5). The supervisor told Ahmed to go see the medic, who is the ship's medical officer on the ship's bridge. Id.

The ship's medic, Jeff Ivie,² examined Ahmed's hands and fingers and observed blood circulation, with no signs of any discoloration or blisters indicating frost bite. CP 1379, ¶7 (A-1, p. 20, ¶7). Medic Ivie gave Ibuprofen to Ahmed and instructed him not to work in the freezer but instead to unload cargo on the pier. Id. Ahmed then worked several hours on the pier assisting in the unloading of the cargo. CP 1379, ¶8 (A-1, p. 20, ¶8).

A week later, on June 30, 2010, Ahmed complained again about his hands, this time to a different medic, Keith Pendleton. CP 1380, ¶11 (A-1, p. 21, ¶11). On July 16, 2010, Ahmed made a third complaint about his hands to medic Ivie,

² Second mate Jeff Ivie received training and was qualified by the Coast Guard to serve as the ship's medic. CP 1379, ¶6 (A-1, p. 20, ¶6). He also had access to doctors online or via telephone. Id.

who then drove Ahmed to the clinic in Dutch Harbor, Alaska. CP 1380, ¶2 (A-1, p. 21, ¶12). The clinic diagnosed Ahmed with “frostbite to fingertips.” Id.

Ahmed sought medical treatment for his hands in Seattle and was released to work on October 13, 2010. CP 1380, ¶13 (A-1, p. 21, ¶13). Ahmed returned to work for Glacier on the vessel in 2011 and 2012 as a candler, a job consisting of removing bones and other defects from fish on a lighted assembly line. Id.

Ahmed suffered carpal tunnel syndrome of both wrists following work during a shipyard period in June 2012. CP 1381, ¶14 (A-1, p. 22, ¶14). Ahmed reached maximum cure for the carpal tunnel syndrome and Glacier paid all maintenance and costs relating to the medical treatments. Id. Glacier paid \$76,267.96 to Ahmed for his work in 2012. CP 1381, ¶15 (A-1, p. 22, ¶15).

D. ARGUMENT

1. The Unchallenged Findings Are Verities.

“The party challenging a finding of fact bears the burden of showing that it is not supported by the record.” *Panorama Vill. Homeowners Ass'n v. Golden Rule Roofing, Inc.*, 102 Wn. App. 422, 425, 10 P.3d 417 (2000). Unchallenged findings are verities on appeal. *In re Marriage of Brewer*, 137 Wn. 2d 756, 766, 976 P.2d 102 (1999). Even where the appellant assigns error to a court's findings of fact, but does not provide argument in support of his challenge to these findings, the appellate court also treats such findings as verities on appeal. *Valley View Indus. Park v. Redmond*, 107 Wn.2d 621, 630, 733 P.2d 182 (1987). Here, Ahmed does not challenge any of the trial court's findings of fact on appeal. Nor does he argue the findings were wrong. Thus, all findings are true.

2. Ahmed Fails to Provide A Record Showing Error.

A trial court's decision “is presumed to be correct and should be sustained absent an affirmative showing of error.”

State v. Wade, 138 Wn.2d 460, 464, 979 P.2d 850 (1999). An appellate court reviews a trial court's decision following a bench trial to determine whether the findings are supported by substantial evidence and whether the findings support the court's conclusions of law. *Standing Rock Homeowners Ass'n v. Misich*, 106 Wn. App. 231, 242-43, 23 P.3d 520 (2001), review denied, 145 Wn.2d 1008, 37 P.3d 290, (2001). The appellate court gives great deference to the trial court, interfering in its decision only where it bases its ruling on unreasonable or untenable grounds. *Lowe v. Double L Props., Inc.*, 105 Wn. App. 888, 893, 20 P.3d 500 (2001). As noted above, Ahmed does not challenge any of the factual findings by the trial court. Thus, the remaining issue is whether Ahmed has shown that the trial court's findings do not support its conclusions of law.

Ahmed fails to show the court's ruling was untenable. As the party presenting an issue for review, Ahmed has the burden of providing a record adequate to establish the errors claimed.

Id. at 464; *see also* RAP 9.2, 9.9, 9.10. An “insufficient record on appeal precludes review of the alleged errors.” ***Bulzomi v. Dep’t of Labor & Indus.***, 72 Wn. App. 522, 525, 864 P.2d 996 (1994). If an incomplete record fails to affirmatively establish an abuse of discretion by the trial court, the reviewing court should affirm the challenged decision. ***State v. Sisouvanh***, 175 Wn.2d 607, 619-20, 290 P.3d 942 (2012). As noted above, Ahmed neither challenges the factual findings made nor the legal conclusion reached by the trial court in either his Notice of Appeal or Opening Brief. See CP 1441 (Appendix A-2). Nor does he supply a record establishing any abuse of discretion or identifying testimony during trial that shows any error.

Under the terms of RAP 10.3(a)(4), a party is obligated to provide appropriate assignments of error. An assignment error to the “holding” of the trial court without further specificity is too general for proper appellate consideration. *See Talps v. Arreola*, 83 Wn. 2d 655, 657, 521 P.2d 206 (1974) (citing to ***Becwar v. Bear***, 41 Wn. 2d 37, 38, 246 P.3d 1110

(1952)). Rather, an appellant must provide “argument in support of the issues present for review, together with citations to legal authority and references to relevant parts of the record.” RAP 10.3(a)(6). Arguments that are not supported by any reference to the record or by citation of authority need not be considered. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992). *Pro se* litigants are held to the same standard as attorneys and must comply with all procedural rules on appeal. *In re Marriage of Olson*, 69 Wn. App. 621, 626, 850 P.2d 527 (1993).

Ahmed’s appellate brief, formerly his lawyer’s trial brief except that its title has been changed, contains the same fatal flaws of the brief discussed in *Durand v. HIMC Corp.*, 151 Wn. App. 818, 828, n6, 214 P.3d 189 (2009) that notes:

Appellant’s brief often fails to justify a review under the rules of the appellate procedure. See RAP 10.3(a), 18.1(b). The appellants frequently fail to assign error to the Trial Court’s rulings . . . and seem to ask as to the appeal non-reviewable issues simply because the Trial Court did not rule in their favor....

Ahmed's brief provides no argument in support of the issues for review, no citations to legal authority showing error by the trial court, and no references to relevant parts of the record showing error.³ Accordingly, Ahmed's appeal lacks substantive merit, and thus, the trial court's judgment should be affirmed.

3. The Trial Court Did Not Err in Its Legal Conclusions.

The trial court correctly identified that although this case was brought in Washington state court, all substantive aspects of Ahmed's claims are governed by federal admiralty law. CP 1381, ¶1 (A-1, p. 5, ¶1). *See also Clausen v. Icicle Seafoods, Inc.*, 174 Wn.2d 70, 76, 272 P.3d 827 (2012). To recover on his Jones Act negligence claim, Ahmed must prove by a preponderance of the evidence that Glacier was negligent, and that this negligence caused his injuries. CP 1381, ¶2 (A-1, p.

³ Glacier could have filed a separate motion to dismiss prior to filing Glacier's brief, but that would only further delayed this case which has already been subject to delay. *See Pugel v. Monheimer*, 83 Wn. App. 688, 922 P2d 1377 (1996).

22, ¶2) (citing *Ribitzki v. Canmar Reading & Bates, Ltd. P'ship*, 111 F.3d 658, 662 (9th Cir. 1997)(elements of a Jones Act claim are duty, breach, notice and causation). An injury alone does not create Jones Act liability; Ahmed must show that Glacier's conduct fell below the required standard of care. CP 1381, ¶2 (A-1, p. 5, ¶2)(citing *Gautreax v. Sculock Marine Inc.*, 107 F.3d 331, 335 (5th Cir. 1997). Moreover, an employer is not liable when an injury arises solely from the ordinary and normal activities or risk of seaman's work in the absence of proof that the complained of injury was caused by the employer's negligence. CP 1381-83, ¶3 (A-1, pp. 22-23, ¶3). In other words, an employer is not required to protect (indeed cannot protect) employees from all types of injuries. *Id.* (citing *Schouweiler v. Western Towboat Co.*, 2007 U.S. Dist. Lexis 95217 (W.D. Wash. 2007).

Applying the findings in this case, there is no error of law. The trial court correctly noted that at the time of his alleged injury, Ahmed was relatively experienced having

worked in fishing trawlers in Alaska for several years including at other companies. CP 1382-83, ¶7 (A-1, pp. 23-24, ¶7). He worked in the freezer hold and was familiar with the ship's operations including offloading cargo and the risks of working in the obvious cold environment. Id.

The trial court also correctly found that Ahmed was wearing gloves and glove liners when he complained of cold hands. CP 1382, ¶4 (A-1, p. 23, ¶4). Witnesses testified that training was provided before every voyage concerning warming up when needed and crewmembers were permitted to do so. CP 1382, ¶6 (A-1, p. 23, ¶6). There was no evidence that Glaicer prevented crewmembers from leaving the freezer to warm up as needed. Id. Even though the medic did not see signs of frost bite, he directed Ahmed not to work in the freezer. CP 1382, ¶4 (A-1, p. 23, ¶4). Ahmed did not work in the freezer again. Id. When he continued to complain of his hands bothering him, he was taken to a shore side clinic where

he was found able to work, but not in the freezer hold. CP 1382, ¶5 (A-1, p. 23, ¶5).

While the trial court recognized that the standard for negligence under the Jones Act is lower, it correctly applied the evidence and the law to conclude Ahmed had not carried his legal burden that Glacier acted negligently in caring for him. CP 1383, ¶8 (A-1, p. 24, ¶8). It acted reasonably in having him not return to his offloading duties in the freezer hold even though the ship's medic noted no signs of frostbite or injury. *Id.* It also acted reasonably by finding substitute work on the dock during offloads and at the candling table during regular fishing operations. *Id.* Accordingly, the trial court correctly found in favor of Glacier and against Ahmed, dismissing his claim for negligence under the Jones Act. As Ahmed assess no error to either the factual findings or the trial court's conclusions of law, the judgment should be affirmed.

4. The Issues Raised on Appeal Are Frivolous.

Under the terms of RAP 18.9(a), an appellate court may on its own initiative order a party who “files a frivolous appeal” to “pay terms or compensatory damages” to any party harmed by its actions. An appeal is frivolous if there are no debatable issues upon which reasonable minds might differ and it is so totally devoid of merit that there is no reasonable possibility of reversal. *State ex rel. Quick-Ruben v. Verharen*, 136 Wn.2d 888, 905, 969 P.2d 64 (1998).

Here, the appeal is entirely devoid of merit. Ahmed’s issues 1 through 4 appear to be his critiques regarding his legal representation. CP 1441 (A-2, p. 28). Ahmed’s complaints about his lawyer’s performance are inappropriate in this forum and should have been directed by Ahmed to his counsel. As to Issue 5, Ahmed merely re-states his belief concerning his physical condition without any reference to negligence by Glacier or that its actions caused his injury. *Id.* As stated above, Ahmed’s brief provides no argument in support of the

issues for review, no citations to legal authority supporting that the trial court either erred in its factual findings or misapplied the law, and crucially, makes no references to relevant parts of the record proving such errors. Consequently, Ahmed fails to establish any basis on which his appeal should be granted.

E. CONCLUSION

Based on the foregoing, Glacier respectfully requests that the judgment of the trial court on this matter be affirmed in its entirety.

DATED this 12th day of October, 2015.

NIELSEN SHIELDS, PLLC



Louis A. Shields, Esq.
Attorneys for Respondent
Glacier Fishing Co., LLC

APPENDIX A-1

RECEIVED THE HONORABLE SAMUEL S. CHUNG

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DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY, WASHINGTON

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KING COUNTY, WASHINGTON
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SUPERIOR COURT CLERK

SUPERIOR COURT OF THE STATE OF WASHINGTON
KING COUNTY

ELSADIG AHMED,

Plaintiff,

v.

GLACIER FISH COMPANY, LLC., a
Washington Limited Liability Company,

Defendant.

NO. 13-2-23510-2 SEA

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER OF DISMISSAL

Clerk's Action Required

This matter came for a bench trial from December 8, 2014 through December 11, 2014. Plaintiff Elsadig Ahmed ("Ahmed") proceeded on two claims against Defendant Glacier Fish Company, Llc., ("Glacier") a Washington Limited Liability Company, for negligence under the Jones Act, 46 USC § 30104 et. seq., and the common law "unseaworthiness" claim. Due to lack of evidence, this Court dismissed Ahmed's unseaworthiness claim after the conclusion of his case.

A. Witnesses

a. The following witnesses testified at trial for Plaintiff:

- i. Elsadig Ahmed
- ii. Jeff Ivie
- iii. Lynne Wolk
- iv. Dr. Robert J. Kropp
- v. Yatte Diourmassy (via deposition)
- vi. Dr. William Berg (via deposition)

b. The following witnesses testified for Defendant:

- i. Jeff Ivie
- ii. Wes Tabaka
- iii. Rune Bjornerem
- iv. Keith Pendleton, Jr.
- v. Marc Vercruyse
- vi. Jose Garza
- vii. Dr. Kenneth R. Tucker

B. FINDINGS OF FACT

1. Plaintiff Elsadig Ahmed ("Ahmed") is a recent immigrant/refugee from Darfur, Sudan. After arriving in the US, he settled in Iowa working on various minimum wage jobs including janitorial work. After hearing about opportunities in the fishing industry, he went to Alaska. He found work as a fish processor for two companies for several fishing seasons before being hired by Defendant Glacier in 2010.

2. In June, 2010, Ahmed was working as a processor on Glacier's factory trawler vessel, F/V Pacific Glacier. Specifically, on June 23, 2010, Ahmed worked in the vessel's freezer hold, where boxes of processed fish are stacked and stored before they are unloaded at the dock.

3. For workers in the freezer hold, Glacier made protective equipment available, and required the workers to dress properly, including wearing proper boots and gloves. Usually, workers purchased the equipment prior to boarding the vessel or they acquired them at the vessel store.

4. Evidence produced at trial showed that Glacier held safety meetings before each trip. At these meetings, managers/supervisors instructed crewmembers to leave the freezer hold and warm up if they become cold during an offload. Workers were told to change their gloves and to make sure their hands and feet are warm during the offloads.

5. On or about June 23, after working several hours in the freezer, Ahmed complained to the shift supervisor about pain and numbness in his fingers. The supervisor told Ahmed to go see the medic, ship's medical officer on the ship's bridge.

6. Jeff Ivie, a second mate of the vessel, was the ship's medic. Ivie received the required training and was qualified by the Coast Guard to serve as a medic. The vessel also has doctors available online or via telephone.

7. According to Ivie, when Ahmed came to see him, he examined Ahmed's hands. He observed blood circulation in the fingers and that there was no signs of any discoloration or blisters indicating frost bites. Ivie gave Ahmed three tabs of 800 mg. ibuprofen for pain and inflammation of his fingers. He also instructed Ahmed to not to work in the freezer and instead to work on the pier. Ship's medical log, Exh. 14, supports Ivie's testimony.¹

8. Pursuant to Ivie's directives, Ahmed worked several hours on the pier assisting in the unloading of the cargo. Then, according to Ahmed, Marc Verduyssen, the new shift supervisor, ordered Ahmed to return to the freezer for Ahmed's second shift. Ship's crew work two 8 hour shifts for a total of 16 hours with a break in between.

9. Verduyssen testified at trial and denied that he ordered Ahmed to return to

¹ Ahmed testified that Ivie did not even touch or feel his hands. This testimony does not seem credible in light of Ivie's detailed notes in the medical log.

the freezer. According to Vercruyse, the ship's crew, including supervisors must follow instructions from the medical officer. Another witness, Wes Tabaka, who was the "freezer boss" testified that he did not see Ahmed in the freezer.

10. In support of his assertion that Vercruyse ordered him back to the freezer, Ahmed submitted the deposition testimony of Yatte Dioumassey, another processor on the vessel. However, Dioumassey's testimony on page 20 of his deposition simply states that he saw Ahmed in the freezer and that "[Ahmed] said the foreman asked me to go." This testimony is too general regarding any specificity such as the date and time. Overall, the Court does not find that Ahmed met his burden of proof on this key issue.²

11. On June 30, 2010, Ahmed, who had not been working outside the freezer hold since June 23, complained again about his hands to a different medic, Keith Pendleton. This complaint was recorded in the ship's medical log, and Pendleton reported this by email to supervisors, Rune Bjornerem and Cyndie Thompson. Exh. 33.

12. On July 16, 2010, Ahmed made a third complaint about his hands to Jeff Ivie who then drove Ahmed to the clinic in Dutch Harbor. The clinic diagnosed Ahmed with "frostbite to fingertips." Chart notes from that visit state that Ahmed may not work in the freezer because he has an "increased risk of *repeat frostbite*" (emphasis added).

13. Ahmed did not return to the vessel for the rest of the 2010 season. But he continued to seek treatment for his hands including at US Healthworks in Seattle. October 13, 2010 notes from this clinic states that the treating physician told Ahmed that "he can return to work, although he may disagree." Exh. 5. Indeed, Ahmed did work for

² To the extent that the testimony was offered to establish the truth of the matter asserted, the statement attributable to Ahmed would constitute inadmissible hearsay.

Glacier in 2011 and 2012 working as a candler, a job consisting of removing bones and other defects from the fish on a lighted assembly line.

14. Ahmed suffered carpal tunnel syndrome on both wrists following work during a shipyard period in June, 2012. Ahmed has reached maximum cure for the carpal tunnel syndrome, and Glacier has paid all maintenance and costs relating to the medical treatments.

15. Glacier paid Ahmed \$76,267.96 for his work in 2012. He has not worked in the fishing industry since.

C. CONCLUSIONS OF LAW

1. Although brought in Washington State Court, all substantive aspects of Ahmed's claims are governed by federal admiralty law. Chicago Rock Island, & Pacific Railway Co. v. Devine, 239 U.S. 52, 36 S.Ct. 27, 60 L.Ed. 140 (1915).

2. The elements of a Jones Act claim are duty, breach, notice and causation. Ribitzki v. Carmar Reading & Bates, 111 F.3d 658, 662 (9th Cir. 1997). The quantum of evidence necessary to support a finding of Jones Act negligence is less than that required for common law negligence, Ward v. American Hawaii Cruises, Inc., 719 F.Supp. 915, 917 (D.Haw.1988). But it must still be proven by a preponderance of the evidence. In re Hechinger, 890 F.2d 202, 208 (9th Cir. 1989), cert. denied, 498 U.S. 848, 111 S. Ct. 136, 112 L. Ed. 2d 103 (1990). An injury alone does not create Jones Act liability; the plaintiff must show that the employer's conduct fell below the required standard of care. Gautreaux v. Scurlock Marine Inc., 107 F.3d 331, 335 (5th Cir. 1997).

3. Employer is not liable when an injury arises solely from the ordinary and normal activities or risk of seaman's work in the absence of proof that the complained

injury was caused by employer's negligence. An employer simply is not required to protect (indeed cannot protect) employees from all types of injuries. Schouweller v. Western Towboat Co., 2007 U.S. Dist. Lexis 95217 (W.D. Wa 2007).

4. On June 23, 2010, Ahmed claimed his fingers began to bother him after performing normal processor duties in the freezer hold. At the time, Ahmed was wearing gloves and glove liners. When Ahmed initially complained of cold hands, he was evaluated by the vessel's medic, who did not see signs of frost bite but still ordered him not to work in the freezer. As stated above, this Court does not find that Ahmed's supervisor, Vercruyssen ordered him back to the freezer. Evidence show that Ahmed did not work in the freezer again.

5. When Ahmed continued to complain of his hands bothering him, he was taken to the Dutch Harbor clinic for evaluation who told him that he could continue to work but not in the freezer hold. Ahmed did not return to work in 2010 after this clinic visit.

6. Although the standard for negligence is lower under the Jones Act, the Court does not find that Glacier acted negligently with respect to any pre injury training or post injury, i.e., after Ahmed complained about his cold hands. While undoubtedly cold, Ahmed testified that he wore gloves, liners, freezer suit and boots at all times as required. Glacier's witnesses testified that they provided training before every voyage and allowed crewmembers to warm up. There was no admitted evidence that Glacier prevented crewmembers from leaving the freezer to warm up as needed.

7. The Court finds that at the time of the injury allegedly on June 23, 2010, Plaintiff Ahmed was relatively experienced seaman having worked in fishing trawlers in

Alaska for several years including at other companies. He had worked in the freezer hold and was familiar with the ship's operations including offloading of its cargo. He was aware of the risks of working in the obvious cold environment.

8. The Court does not find that Ahmed carried his legal burden that Glacier acted negligently in caring for him. When Glacier first learned of Ahmed's complaint, Glacier's medic inspected his hands for signs of frostbite. When the medic noted no signs of frostbite or injury, Glacier acted reasonably by ordering him not to return to his offloading duties in the freezer hold. Glacier acted reasonably by finding substitute work on the dock during offloads and at the candling table during regular fishing operations. All of the medical provider opined that Ahmed can return to work, except in the freezer hold, an accommodation Glacier provided.

9. ACCORDINGLY, the Court finds in favor of Defendant Glacier and against Plaintiff Ahmed, and dismisses Ahmed claim for negligence under the Jones Act. The clerk is hereby directed to enter judgment in favor of Defendant Glacier.

SO ORDERED,

Dated this 24th day of December, 2014.


Honorable Samuel Chung
KING COUNTY SUPERIOR COURT JUDGE

APPENDIX A-2

FILED

KING CO SUPERIOR CT
BARBARA MIHER
Director & Superior CT Clerk
Seattle WA

FILED
15 JAN 27 PM 3:59

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

13-2-23510-2

Rcpt. Date	Acct. Date	Time
01/27/2015	01/27/2015	04:03 PM
Receipt/Item #	Trans-Code	Docket-Code
2015-07-00700/01	1116	SAFF
Cashier: APG		

IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

Pay By: AHMED, ELSADIG
Transaction Amount:

\$290.00

Elsadig Ahmed

Plaintiff/Petitioner,

vs.

*Glacier Fish
Company, LLC.*

Defendant/Respondent.

NO.

13-2-23510-2 [] SEA
[] KNT

NOTICE OF APPEAL to COURT OF APPEALS
is attached.

COPY SENT TO COURT INDICATED HEREIN

SUPERIOR COURT OF WASHINGTON FOR
(king) COUNTY

(ELSadig Ahmed),) No. (13-2-23510-2)SEA
Plaintiff,)
v.) NOTICE OF APPEAL TO COURT OF APPEALS
(GLACIER FISH COMPANY, LLC),)
Defendant.)

COPY SENT TO COURT INDICATED HEREIN

(ELSadig Ahmed), (plaintiff), seeks
review by the designated appellate court of Findings of Fact

A. witnesses

The following witnesses testified at trial for plaintiff.

ii. Jeff Ivie .

vi. Dr William Berg

The following witnesses testified at trial for defendant.

i. Jeff Ivie.

ii. Wes Tabaka.

iii. Rune Bjornerem.

iv. Keith Pendleton.

v. Marc Vercruysse.

vi. Jose Garza.

viii. Renee Sage.

v. Dr. Kenneth R. Tucker.

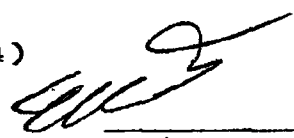
B. Findings of Fact

2,3,4, 5,6,7,8,9,10,11,13,14

C . conclusions of law

1,2,3,4,5,6,7,8,9.

entered on (December 29-2014)

 1-27-2015

Signature
ELSadig AHMED
PLAINTIFF , PRO SE

ELSadig AHMED
2602 Bartelt Rd APT 1B
Iowa City, Iowa 52246
(206-571-3299)
eahmed72@yahoo.com

ELSADIG AHMED
2602 BARTELT RD APT 1B
IOWA CITY, IA 52246
(206) 571-3299
EAHMED72@YAHOO.COM

1. My lawyer was not representing me well in front of the court
2. my lawyer refused to call all the witnesses I work with in the freezer hold only one and did not call him to come in the court .
3. my lawyer did not provide me a translator and used defendant's interpreter .
4. My lawyer called Jeff Ivie as a witness and never was I told about him. I only saw his name on the court decision as my witness.
5. I still have problem for frostbites on my fingers and carpal tunnel pain and numbness .



1-27-2015

CERTIFICATE OF SERVICE

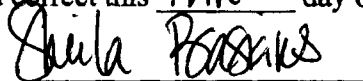
The undersigned certifies that on this day he/she caused to be served in the manner noted below, a copy of the document to which this certificate is attached, on the following counsel of record:

Mr. Elsadig Ahmed
2602 Bartelt Rd.
Apt. 1B
Iowa City, IA 52246

Robert Anderson, Esq.
Anderson & Mitchell, PLLC
100 King Street, Suite 560
Seattle, WA 98104

- Via U.S. Mail
- Via Email
- Via Facsimile
- Via Hand Delivery

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct this 17th day of October, 2015.



Signed at Seattle,
Washington