U.S. Department of Labor

Benefits Review Board
P.O. Box 37601
Washington, DC 20013-7601

BRB No. 14-0344

JAMES BAKER, JR.	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
GULF ISLAND MARINE FABRICATORS, LLC	)	
	)	
	)	DATE ISSUED: July 14, 2015
Self-Insured Employer-Respondent	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Respondent	)	DECISION and ORDER

Appeal of the Decision and Order of Patrick M. Rosenow, Administrative Law Judge, United States Department of Labor.

William S. Vincent, Jr., W. Jared Vincent, and V. Jacob Garbin (Law Offices of William S. Vincent, Jr.), New Orleans, Louisiana, for claimant.

William S. Bordelon (Bordelon & Shea, LLP), Houma, Louisiana, for self-insured employer.

Rebecca J. Fiebig (M. Patricia Smith, Solicitor of Labor; Rae Ellen James, Associate Solicitor; Mark A. Reinhalter, Counsel for Longshore), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: HALL, Chief Administrative Appeals Judge, BOGGS and BUZZARD, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order (2013-LHC-1807) of Administrative Law Judge Patrick M. Rosenow rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act), and as extended by the Outer Continental Shelf Lands Act, 43 U.S.C. §1301 *et seq.* (the OCSLA). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law.[1] 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant worked as a marine carpenter at employer's land-based Houma, Louisiana, facility. He was hired to fabricate topside living quarters to be incorporated onto the tension leg oil platform *Big Foot*.[2] Although fabrication of these living quarters was essentially the same work as fabricating living quarters to be placed on a naval vessel, a private vessel, or a fixed oil rig, these particular quarters were designated for *Big Foot*. At all times during his eight-month employment, claimant worked on this project on dry land, approximately 100 yards from a navigable canal. EX 1. On two or three occasions, claimant boarded a boat to take a 10-to-15-minute ride across the canal to a meeting or function at employer's facility on the other side of the canal.[3] Tr. at 44-48. Claimant alleges he injured his neck/back on October 22, 2012, while installing sheet metal during the construction of the living quarters.[4] On November 7, 2012, claimant

[1] We deny claimant's motion for oral argument. 20 C.F.R. §802.306.

[2] The administrative law judge incorporated the parties' stipulations into his findings. Decision and Order at 2 n.4; EX 1. Some particular stipulations as to *Big Foot* are as follows: the floating hull was built in Korea and transported by ship to Kiewit's heavy-lifting facility in Ingleside, Texas; employer's sister company (Gulf Marine Fabricators, L.P.) fabricated the drill, utility, and process modules in its facility in Aransas Pass, Texas; after completion, the living quarters and the three modules would be integrated onto the hull in Ingleside by Gulf Marine Fabricators (the living quarters began barge transport to Ingleside on July 23, 2013); once completed, *Big Foot* will be towed, under its own buoyancy, approximately 200 miles off the Louisiana coast where it will be anchored to the sea floor by tension cables; once anchored, *Big Foot* will serve as a work platform to extract/transport oil from the Outer Continental Shelf (OCS) for approximately 20 years. Employer and its related companies will play no role in the deep-sea towing, the anchoring, or the extraction of oil. Decision and Order at 2-3; EX 1.

[3] Employer's facility straddled the Houma Navigation Canal with a shipyard on each side. Claimant worked on only one side. Tr. at 47-48.

[4] Employer did not stipulate claimant suffered an injury; it did, however, stipulate that if claimant suffered an injury, it occurred in the course and scope of his employment.

filed a claim for benefits under the Act or, alternatively, under the OCSLA.

The administrative law judge set forth the statutory provisions relating to coverage under the Act and the OCSLA.[5] 33 U.S.C. §902(3), (21); 43 U.S.C. §1333. As it relates to the Act, the administrative law judge stated that "shipbuilding" requires an employee to be involved in furthering the employer's goal of constructing ships and, thus, must involve a "vessel." Therefore, he stated that he must determine whether *Big Foot* is a vessel, as that would establish whether claimant's activities involved "shipbuilding." 33 U.S.C. §902(3). The administrative law judge found that *Big Foot* is not a vessel and that claimant was not "in maritime status." Decision and Order at 10. Next, the administrative law judge found that claimant is not covered by the OCSLA because, at the time of claimant's alleged injury, "there was no completed rig, much less a rig operating, installed or even in transit[;]" thus, there was no significant link between claimant's injury and any extractive operations on the Outer Continental Shelf (OCS). *Id.* at 11. Consequently, the administrative law judge denied the claim for benefits. Claimant appeals the denial of his claim. Employer and the Director, Office of Workers' Compensation Programs (the Director), respond, urging affirmance of the administrative law judge's decision. Claimant filed a reply brief.

Claimant contends the administrative law judge erred in finding *Big Foot* is not a vessel and in concluding he was not engaged in covered employment.[6] Alternatively, claimant contends the administrative law judge erred in finding he is not covered by the OCSLA, as there is a substantial nexus between his fabrication of the living quarters module and the extraction process on the OCS in that the living quarters will house those who will extract oil.[7] Employer urges the Board to affirm the administrative law judge's

[5] That claimant's injury occurred on a covered situs pursuant to 33 U.S.C. §903(a) is not in dispute. *See* Tr. at 6.

[6] Contrary to claimant's assertion, the administrative law judge specifically found that the status requirement of Section 2(3) was not met because claimant's work did not involve a vessel. Decision and Order at 10.

[7] Claimant also contends employer belatedly challenged coverage in a supplemental pre-hearing statement dated January 20, 2014, just over one month prior to the hearing and well after the informal conference held in July 2013, potentially leaving claimant without any coverage were it to be determined that the time for filing his state claim had expired. Contrary to claimant's assertion, employer's actions with regard to a claim under the Act do not preclude him from filing a state claim. Moreover, under the Act, a party is not limited to addressing before the administrative law judge only those issues addressed by the district director at an informal conference. The administrative law judge may address new issues so long as the parties are given notice of the issue and

findings. The Director agrees the administrative law judge properly found that *Big Foot* is not a vessel and that there is no substantial nexus between claimant's work and OCS operations.

Longshore Act Coverage

For a claim to be covered by the Act, a claimant must establish that his injury occurred upon the navigable waters of the United States, including any dry dock, or that it occurred on a landward area covered by Section 3(a), and that his work is maritime in nature pursuant to Section 2(3) and is not specifically excluded by any provision in the Act. 33 U.S.C. §§902(3), 903(a); *Director, OWCP v. Perini North River Associates*, 459 U.S. 297, 15 BRBS 62(CRT) (1983); *P.C. Pfeiffer Co. v. Ford*, 444 U.S. 69, 11 BRBS 320 (1979); *Northeast Marine Terminal Co. v. Caputo*, 432 U.S. 249, 6 BRBS 150 (1977). Thus, in order to demonstrate that coverage exists, a claimant must separately satisfy both the "situs" and the "status" requirements of the Act. *Anaya v. Traylor Brothers, Inc.*, 478 F.3d 251 (5th Cir. 2007), *cert. denied*, 552 U.S. 814 (2008).

Only claimant's "status" is at issue in this case. *See* n. 5, *supra*. Section 2(3) of the Act provides:

> The term 'employee' means any person engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and ship-breaker. . . .

33 U.S.C. §902(3). A claimant satisfies the "status" requirement if he is an employee engaged in work which is integral to the loading, unloading, constructing, or repairing of vessels. *Chesapeake & Ohio Ry. Co. v. Schwalb*, 493 U.S. 40, 23 BRBS 96(CRT) (1989). To satisfy this requirement, he need only "spend at least some of [his] time in indisputably [covered] operations." *Caputo*, 432 U.S. at 273, 6 BRBS at 165; *Boudloche v. Howard Trucking Co.*, 632 F.2d 1346, 12 BRBS 732 (5th Cir. 1980), *cert. denied*, 452 U.S. 915 (1981).

Claimant argues that *Big Foot* will have two lives, one as a vessel and one as a floating oil platform on the OCS, and as it will be a vessel for at least some portion of its life, his work constructing the living quarters for that "vessel" constitutes the maritime work of "shipbuilding." The Act's definition of the term "vessel" at 33 U.S.C.

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the opportunity to submit evidence and arguments. *Lewis v. Norfolk Shipbuilding & Dry Dock Corp.*, 20 BRBS 126 (1987); 20 C.F.R. §§702.317, 702.336.

§902(21),[8] is "circular;" thus, courts have held that the definition of "vessel" at 1 U.S.C. §3 applies to the Act because Section 2(21) does not define the type of craft to be included in the term "vessel." *See McCarthy v. The Bark Peking*, 716 F.2d 130, 15 BRBS 182(CRT) (2d Cir. 1983), *cert. denied*, 465 U.S. 1068 (1984); *Burks v. American River Transp. Co.*, 679 F.2d 69 (5th Cir. 1982); *see also Stewart v. Dutra Constr. Co., Inc.*, 543 U.S. 481, 497, 39 BRBS 5, 12(CRT) (2005) ("1 U.S.C. § 3 defines the term 'vessel' throughout the LHWCA"). 1 U.S.C. §3 provides: "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." If *Big Foot* is a "vessel," claimant was engaged in "shipbuilding" under Section 2(3). In this respect, the Board held in *McCullough v. Marathon Letourneau Co.*, 22 BRBS 359 (1989), that a jack-up rig under construction on land was a vessel under 1 U.S.C. §3, and therefore the claimant, who was a welder involved in the construction of the rig, was a "shipbuilder" under Section 2(3).

More recently, the Supreme Court has interpreted the 1 U.S.C. §3 definition of "vessel." In *Stewart*, 543 U.S. 481, 39 BRBS 5(CRT), the Court addressed whether the *Super Scoop* dredge was a "vessel" such that the injured employee could pursue a Jones Act claim and a 33 U.S.C. §905(b) negligence suit. The Court stated that the factual question in all cases is "whether the watercraft's use 'as a means of transportation on water' is a practical possibility or merely a theoretical one." *Stewart*, 543 U.S. at 496, 39 BRBS at 11(CRT). Because *Super Scoop* could propel itself 15 to 25 feet per hour to accomplish its task of digging while carrying its machinery and crew over water, the Court held that it was "practically capable" of transporting people and cargo over water and, thus, was a "vessel."[9]

The United States Court of Appeals for the Fifth Circuit, within whose jurisdiction this case arises, subsequently addressed *Stewart* in two Jones Act cases. *Cain v. Transocean Offshore USA, Inc.*, 518 F.3d 295, 42 BRBS 4(CRT) (5th Cir. 2008); *Holmes v. Atlantic Sounding Co., Inc.*, 429 F.3d 174 (5th Cir. 2005), *superseded by* 437 F.3d 441,

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[8] Section 2(21) provides:

> Unless the context requires otherwise, the term "vessel" means any vessel upon which or in connection with which any person entitled to benefits under this chapter suffers injury or death arising out of or in the course of his employment, and said vessel's owner, owner pro hac vice, agent, operator, charter or bare boat charterer, master, officer, or crew member.

[9] Although the *Super Scoop* could not travel long distances on its own and had to be moved by tugboat, it had a captain, a crew, navigation lights, and ballast tanks. For short distances during dredging, it could self-propel by manipulating its anchors and cables, moving 30 to 50 feet every two hours.

39 BRBS 67(CRT) (5th Cir. 2006), *abrogated by Lozman v. City of Riviera Beach, Florida*, ___ U.S. ___, 133 S.Ct. 735, 46 BRBS 93(CRT) (2013). In *Cain*, the court addressed whether a semi-submersible drilling rig, still under construction, was a "vessel in navigation" under the Jones Act. The court held that *Stewart* did not address when a vessel-to-be actually becomes a vessel; therefore, Fifth Circuit precedent, which distinguished between completed watercrafts and those still under construction, remained intact. Specifically, the court noted that *Stewart* addressed whether an established structure was a vessel "in navigation," relating "navigation" to whether the structure may have lost its "vessel" characteristic by being removed from water for extended periods. Thus, because a structure could lose its "vessel" status by being removed from water, it, similarly, "may not attain vessel status before it is ever put into 'navigation.'" *Cain*, 518 F.3d at 301, 42 BRBS at 7-8(CRT). The Fifth Circuit, therefore, continues to follow the premise, under the Jones Act, that "[f]or there to be a seaman, there must first be a ship[.]" *Id.*, 518 F.3d at 302, 42 BRBS at 9(CRT) (quoting *Williams v. Avondale Shipyards, Inc.*, 452 F.2d 955, 958 (5th Cir. 1971)). As the semi-submersible rig in *Cain* was still under construction, it could not be a vessel in navigation under the Jones Act.[10]

In *Holmes*, the Fifth Circuit considered whether quarterbarge BT-213, a floating dormitory with sleeping quarters, toilets, a fully-equipped galley, and locker rooms, was a "vessel" under the Jones Act in light of *Stewart*. The court noted that BT-213 was towed by tugboat between dredging projects and was moored or docked during the course of the project. It had no means of self-propulsion, was not intended to transport personnel or cargo, and was not fitted with running lights, radar, lifeboats, or steering equipment. Other than two cooks and two janitors, it had no "crew." After reviewing its own precedent, the Fifth Circuit concluded that *Stewart* minimally modified the law for determining what constitutes a "vessel," and that the BT-213 did not serve a transportation function, as it was engaged exclusively in housing. Accordingly, the court affirmed the district court's finding that the BT-213 was not a vessel. *Holmes*, 429 F.3d 174.[11] Three months later, the Fifth Circuit withdrew its initial decision in *Holmes*. In its new opinion, the court determined that *Stewart* significantly broadened the "set of unconventional watercraft that must be deemed vessels[.]" *Holmes*, 437 F.3d at 448, 39

[10] This distinction between construction and completion, as the administrative law judge correctly noted, cannot be applied to the Longshore Act because it would render the "shipbuilding" element of the Longshore Act meaningless. *See* Decision and Order at 9.

[11] *See also Gremillion v. Gulf Coast Catering Co.*, 904 F.2d 290 (5th Cir. 1990) (shore-side quarterbarge with no propulsion that acted as shallow-waterway living quarters was not a vessel under the Jones Act).

BRBS at 72(CRT). Accordingly, it stated that, in light of *Stewart* and because "vessel" is defined as "any watercraft practically capable of maritime transportation," it had "no trouble concluding that the BT-213 is a vessel." *Id.* Therefore, it reversed the district court's decision that the BT-213 was not a vessel and remanded the case for further proceedings.

Since the more recent *Holmes* decision, the Supreme Court again has addressed the definition of "vessel." It held that the houseboat in question was not a "vessel" for the purpose of maritime trespass and liens. *Lozman v. City of Riviera Beach, Florida*, ___ U.S. ___, 133 S.Ct. 735, 46 BRBS 93(CRT) (2013). In *Lozman*, the Court described the houseboat as a plywood structure with doors, windows, and a bilge space underneath for buoyancy, but no means of self-propulsion. It was towed to places where it was moored or docked. The Supreme Court relied on the premise that the definition at 1 U.S.C. §3 requires a "vessel" to supply "transportation" and "'transportation' involves the 'conveyance (of things or persons) from one place to another.'" *Lozman*, 133 S.Ct. at 741, 46 BRBS at 94(CRT) (quoting 18 Oxford English Dictionary 424 (2d ed. 1989)). Thus, the Court held that, although many unconventional craft may be "vessels," the consideration, especially in "borderline cases where 'capacity' to transport over water is in doubt," must be whether "a reasonable observer, looking to the [craft's] physical characteristics and activities, would consider it designed to a practical degree for carrying people or things over water." *Lozman*, 133 S.Ct. at 741, 745, 46 BRBS at 95, 98(CRT). As the Supreme Court held that not every floating structure is a vessel, and as it concluded that the term "contrivance" in the definition refers to the fact that a craft must have been created ("contrived") for a particular purpose, the Court explained that transportation must, to some degree, be part of the purpose of the watercraft in question. *Id.*, 133 S.Ct. at 740-742, 46 BRBS at 95(CRT). Because the houseboat in *Lozman* was not designed to transport people or things over water, it had no rudder or steering mechanism, it had an unraked hull, and it had no capacity to generate or store electricity, the Court, as a reasonable observer considering the houseboat's use, characteristics, and purpose, determined it was not a vessel.[12] *Lozman*, 133 S.Ct. at 744-745, 46 BRBS at 97(CRT). In light of its decision, the Court abrogated, as inappropriate and inconsistent with the definition of "vessel," the "anything that floats" approach of some lower courts, including the Fifth Circuit's decisions in *Holmes* and *Burks*. *Id.*, 133 S.Ct. at 743, 46 BRBS at 96-97(CRT).

In light of *Lozman* and *Stewart*, and as a potential "borderline case" where the "capacity to transport is in doubt," it is necessary to consider whether *Big Foot* is

[12] A watercraft's lack of self-propulsion is not, alone, dispositive. *Lozman*, 133 S.Ct. at 741, 46 BRBS at 95(CRT); *see The Robert W. Parsons*, 191 U.S. 17, 31 (1903). However, as with the *Lozman* houseboat, it is a relevant factor in the case before us.

"practically capable" of transporting people or cargo based on the purpose for which it was created and its physical characteristics. Claimant concedes, in its planned final state, *Big Foot* will not be a "vessel." It will be a tension leg platform secured to the sea bed, and claimant's job was to construct living quarters to place on that structure. If claimant had been building living quarters to be placed on a naval ship, there is no doubt that the finished product, a ship, would be a "vessel" and his employment would have aided in building that vessel, *i.e.*, was in "shipbuilding."[13] *Alford v. American Bridge Div., U. S. Steel Corp.*, 642 F.2d 807, 13 BRBS 268 (5th Cir.), *modified*, 655 F.2d 86, 13 BRBS 837 (5th Cir. 1981)**,** *cert. denied*, 455 U.S. 927 (1982). If claimant had been building living quarters to be placed on a fixed oil platform, there is no doubt the fixed platform is not a vessel. *Herb's Welding, Inc. v. Gray*, 470 U.S. 414, 17 BRBS 78(CRT) (1985).

We hold that the administrative law judge rationally found that *Big Foot* was not a "vessel" under 1 U.S.C. §3. *Big Foot*'s undisputed end-purpose is to be a tension leg platform for oil extraction on the OCS.[14] The parties stipulated that *Big Foot*: was not being built to regularly transport goods or people (although they agreed a small crew would ensure its safe transport); will be towed to its final offshore location where it will

[13] We acknowledge that a vessel may lose its status as a "vessel" at some point in the future, such as when a ship is taken out of commerce, decommissioned, and repurposed for some dockside use. *See Kathriner v. Unisea, Inc.*, 975 F.2d 657 (9th Cir. 1992) (liberty ship converted to a fish processing plant no longer a "vessel in navigation" under the Jones Act); *compare with Bunch v. Canton Marine Towing, Inc.*, 419 F.3d 868, 39 BRBS 59(CRT) (8th Cir. 2005) (cleaning barge which was built for use in navigation but was now moored to the bed of a river was still "capable of being used" for maritime transportation and, thus, remained a "vessel in navigation" under the Jones Act). However, a claimant who was injured during the construction of that ship would be engaged in "shipbuilding" and would be covered by the Act. 33 U.S.C. §902(3). The later loss of the ship's "vessel status" would become relevant only if the worker was injured at that later date.

[14] In an unpublished decision cited by the administrative law judge, *Warrior Energy Services Corp. v. ATP Titan M/V*, 551 F. App'x 749 (5th Cir. 2014), the Fifth Circuit cited *Lozman* and *Stewart*, as well as its "prior precedent" and the definition of "vessel," to hold that a floating offshore rig was not a vessel under the Maritime Lien Act. The rig was moored to the sea floor, it had not moved since it was installed, it had no means of self-propulsion, and moving it would cost a significant amount of time and money. Thus, once long-term tethering has occurred, the Fifth Circuit held that the structure is not a vessel. *See also Scroggs v. Bis Salamis, Inc.*, 2010 WL 3910563 (E.D. Tex. Oct. 5, 2010) (pre-*Lozman* case: floating oil production facility permanently attached to sea floor is not a vessel under Jones Act).

be anchored in place with tension cables; is capable of floating; and, is not capable of self-propulsion (it has no steering mechanism, no raked bow, and no thrusters for positioning). EX 1. That *Big Foot* will be able to float and travel with a small crew on board does not render it a "vessel" within the meaning of the definition. *Lozman*, 133 S.Ct. at 743, 46 BRBS at 96-97(CRT). Not every floating structure is a vessel. *Id.*, 133 S.Ct. at 740, 46 BRBS at 94(CRT). *Big Foot* cannot self-propel; it must be towed, and it will carry only those items that are part of the rig itself, much like the houseboat in *Lozman*. A reasonable person looking at the characteristics of *Big Foot* could rationally conclude *Big Foot* was not "designed to a practical degree for carrying people or things over water;" it was designed to extract oil from the OCS and to house the offshore workers. *Lozman*, 133 S.Ct. at 741, 46 BRBS at 95(CRT); *see also Evansville & Bowling Green Packet Co. v. Chero Cola Bottling Co.*, 271 U.S. 19 (1926) (wharfboat which floated next to a dock to transfer cargo from ship to dock via cables, utility lines and a ramp, but which could be towed, was not a "vessel").[15] Unlike the cleaning barge in *Bunch v. Canton Marine Towing, Inc.*, 419 F.3d 868, 39 BRBS 59(CRT) (8th Cir. 2005), *see* n.13, *supra*, *Big Foot* was not built for navigation. Therefore, in light of *Stewart* and *Lozman*, the administrative law judge rationally concluded that *Big Foot* is not a vessel, and his finding is supported by substantial evidence of record.[16] Accordingly, we affirm the administrative law judge's denial of benefits under the Act, as claimant is not a "shipbuilder" and does not satisfy the Section 2(3) status requirement.[17]

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[15] The *Lozman* Court opined that the difference between the holdings in *Stewart* and *Evansville* was that the dredge was "regularly, but not primarily, used (and designed in part to be used) to transport workers and equipment over water while the wharfboat was not designed (to any practical degree) to serve a transportation function and did not do so." *Lozman*, 133 S.Ct. at 743, 46 BRBS at 96(CRT).

[16] As the Director asserts, claimant's reliance on the Coast Guard's categorization of *Big Foot* as a "non-self-propelled vessel," CX 2, is misplaced because the Coast Guard must inspect and categorize all facilities on the OCS and that does not necessarily equate to the facility being a "vessel" under the Act. Dir. Br. at 7 n.2.

[17] Claimant urges the Board to hold that *Big Foot* is a vessel because the Board's decision will have repercussions beyond this case. For example, he questions whether injuries to a crew member or to a marine carpenter repairing the living quarters, during the towing, would be covered if *Big Foot* is not a "vessel." Cl. Br. at 12. The Board's decisions must be based on the facts of the case before it; it is not required to consider every potential scenario in rendering a decision. Moreover, claimant's hypothetical injuries may be covered by the Act by virtue of their having occurred on navigable water. 33 U.S.C. §903(a); *Director, OWCP v. Perini North River Associates*, 459 U.S. 297, 15 BRBS 62(CRT) (1983).

OCSLA Coverage

Compensation is available under the Longshore Act for those employees who meet the requirements of the OCSLA. 43 U.S.C. §1333(a)(1), (b); *Pacific Operators Offshore, LLP v. Valladolid*, ___ U.S. ___, 132 S.Ct. 680, 45 BRBS 87(CRT) (2012); *Offshore Logistics v. Tallentire*, 477 U.S. 207 (1986); *Rodrigue v. Aetna Casualty & Surety Co.*, 395 U.S. 352 (1969); *Demette v. Falcon Drilling Co., Inc.*, 280 F.3d 492, 35 BRBS 131(CRT) (5th Cir. 2002); *see also Diamond Offshore Co. v. A&B Builders, Inc.*, 302 F.3d 531 (5th Cir. 2002). The OCSLA covers injuries occurring "as the result of operations conducted on the outer Continental Shelf for the purpose of exploring for, developing, removing, or transporting by pipeline the natural resources . . . of the subsoil and seabed of the [OCS.]" 43 U.S.C. §1333(b). The Supreme Court has held that an employee's activities are the "result of" these operations if they have a substantial nexus to OCS operations; that is, there must be "a significant causal link between the injury that [a claimant] suffered and his employer's on-OCS operations conducted for the purpose of extracting natural resources from the OCS." *Valladolid*, 132 S.Ct. at 691, 45 BRBS at 92(CRT) (off-shore OCS worker killed while working on-shore at his employer's oil processing plant; denial of benefits reversed; case remanded to apply the substantial nexus test).

The administrative law judge briefly discussed *Valladolid*. He found that, as the living quarters being constructed were not unique to OCS operations, there was no completed or operating rig, and employer would have no role in the installation or operation of the rig on the OCS, claimant's injury did not have a significant causal link to on-OCS operations. Decision and Order at 10-11. The administrative law judge's finding is rational and supported by substantial evidence. As the Director points out: "[claimant's] activities were geographically, temporally and functionally distant from 'operations conducted for the purpose of extracting natural resources from the' outer continental shelf." Dir. Br. at 12 (quoting *Valladolid*, 132 S.Ct. at 691, 45 BRBS at 92(CRT)). Thus, claimant has failed to establish that there is a "significant causal link" between his injury and "his employer's on-OCS operations conducted for the purpose of extracting natural resources from the OCS," and we affirm the administrative law judge's denial of benefits under the OCSLA as it is in accordance with the law. *Id.*

Accordingly, the administrative law judge's Decision and Order is affirmed.

SO ORDERED.

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BETTY JEAN HALL, Chief
Administrative Appeals Judge

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JUDITH S. BOGGS
Administrative Appeals Judge

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GREG J. BUZZARD
Administrative Appeals Judge