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Williams Sports Rentals Inc. v. Willis (In re Complaint & Petition of Williams Sports Rentals, Inc.)

United States Court of Appeals for the Ninth Circuit

May 13, 2019, Argued and Submitted, San Francisco, California; May 17, 2019, Filed

No. 18-15006

Reporter

2019 U.S. App. LEXIS 14693 *

In re: COMPLAINT AND PETITION OF WILLIAMS SPORTS RENTALS, INC. AS OWNER OF A CERTAIN 2004 YAMAHA WAVE RUNNER FX 140 (CF 5408 LE) FOR EXONERATION FROM OR LIMITATION OF LIABILITY, WILLIAMS SPORTS RENTALS INC., as Owner of a Certain 2004 Yamaha Waverunner FX 140, Petitioner-counter-respondent-Appellee, v. MARIAN LATASHA WILLIS, on behalf of the Estate of Raeshon Williams, Respondent-counter-claimant-Appellant..

Notice: PLEASE REFER TO FEDERAL RULES OF APPELLATE PROCEDURE RULE 32.1 GOVERNING THE CITATION TO UNPUBLISHED OPINIONS.

Prior History: [*1] Argued and Submitted San Francisco, California. D.C. No. 2:17-cv-00653-JAM-EFB.

Willis ex rel. Estate of Williams v. Williams Sports Rentals, Inc. (In re Williams Sports Rentals, Inc.), 2017 U.S. Dist. LEXIS 206845 (E.D. Cal., Dec. 15, 2017)

Disposition: VACATED AND REMANDED.

Core Terms

district court, injunction, interlocutory appeal, vacate, moot, wrongful death claim, prejudiced, dissolve, abused, lift, circumscribed, stipulations, recognizes, anti-suit, proffered, quotation, maritime, narrowly, appeals, depends, argues, merits, notice, vessel, marks, rests

Counsel: For WILLIAMS SPORTS RENTALS INC., as Owner of a Certain 2004 Yamaha Waverunner FX 140, Petitioner-counter-respondent - Appellee: Brian Otis Felder, Esquire, Attorney, Wilson Elser Moskowitz Edelman & Dicker LLP, Los Angeles, CA.

For MARIAN LATASHA WILLIS, on behalf of the Estate of Raeshon Williams, Respondent-counter-claimant - Appellant: John Ralph Hillsman, Esquire, Attorney, McGuinn Hillsman & Palefsky, San Francisco, CA; Steven A. Kronenberg, Esquire, Attorney, The Veen Firm, P.C., San Francisco, CA.

Judges: Before: THOMAS, Chief Judge, and IKUTA, Circuit Judge, and MOLLOY,** District Judge.

Opinion

MEMORANDUM*

Marian Willis appeals the dismissal of her maritime wrongful death claim against Williams Sports Rentals, Inc. She argues the district court erred by denying her motion to lift the anti-suit injunction, denying her motion for a stay pending her interlocutory appeal of that denial, and dismissing her wrongful death claim with prejudice. We have jurisdiction under 28 U.S.C. § 1291, and we vacate and remand.

1. Willis's motion to stay the limitation proceeding pending her interlocutory appeal was mooted by the district [*2] court's final judgment on the merits and is not properly before us. See *Foster v. Carson*, 347 F.3d 742, 745 (9th Cir. 2003) ("If there is no longer a possibility that an appellant can obtain relief for his claim, that claim is moot and must be dismissed for lack of jurisdiction."); see also Order, *Williams Sports Rentals Inc. v. Willis (In re Williams Sports Rentals,*

** The Honorable Donald W. Molloy, United States District Judge for the District of Montana, sitting by designation.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Inc.), No. 17-16981, 2018 U.S. App. LEXIS 10734 (9th Cir. Apr. 25, 2018) (dismissing Willis's interlocutory appeal as moot).

2. We review a district court's decision to maintain or dissolve an injunction under the Limitation of Liability Act for abuse of discretion. *Lewis v. Lewis & Clark Marine*, 531 U.S. 438, 449, 121 S. Ct. 993, 148 L. Ed. 2d 931 (2001); *Newton v. Shipman*, 718 F.2d 959, 961 (9th Cir. 1983) (per curiam). As the Supreme Court instructed in *Lewis*, the decision depends on whether the vessel owner's limitation right is "adequately protected." 531 U.S. at 454. Consistent with *Lewis*, this Court recognizes that "[w]here, however, a single claim is involved or where multiple claims do not exceed the limitation fund, the court's discretion is narrowly circumscribed and the injunction must be dissolved unless the owner can demonstrate that his right to limit liability will be prejudiced." *Newton*, 718 F.2d at 961 (internal quotation marks omitted).

The district court abused its discretion by failing to consider whether Williams Sports Rentals's limitation right would be prejudiced if the injunction were [*3] lifted. See *Pom Wonderful LLC v. Hubbard*, 775 F.3d 1118, 1123 (9th Cir. 2014) ("[A] district court abuses its discretion if the court rests its decision on an erroneous legal standard."). Though we "may affirm on any basis supported by the record, whether or not relied upon by the district court," *Zixiang Li v. Kerry*, 710 F.3d 995, 999 (9th Cir. 2013), Willis never formally proffered her stipulations to the district court, and thus they are not part of the record. Accordingly, we vacate and remand for the district court to conduct the proper prejudice inquiry under *Lewis v. Lewis & Clark Marine, Inc.* and *Newton v. Shipman* in the first instance.

VACATED AND REMANDED.¹

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¹ Willis's motion for judicial notice is **DENIED** because the facts at issue are "not relevant to the resolution of this appeal." *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 n.2 (9th Cir. 2006).