

to review the hearing officer's decision in a case in which the Secretary had made the initial decision to issue the notice of intent to deny the permit. However, CECOS only asked that the Secretary be recused from further participation in the proceedings if the Secretary's decision was reversed and remanded to the agency. Because the court affirmed the decision of the Secretary, it did not address the issue of the Secretary's recusal.

ASHLEY WADICK

Cheramie v. J. Wayne Plaisance, Inc., 583 So. 2d 921 (La. App. 1st Cir. 1991)

In 1987, J. Wayne Plaisance Inc. (Plaisance) was developing plans for the stabilization of the Isle Dernieres Barrier Island System in Terrebonne Parish. Surveying was done in all-terrain vehicles which destroyed the nests, eggs, and young of various birds on the western island, and possibly drove away a pair of brown pelicans, a protected species in Louisiana. Plaintiff Cheramie, an employee of Plaisance, reported these acts to state wildlife officials, who asked the joint venture to cease the surveying operations until the damages could be assessed. When survey teams were nevertheless sent out on foot, plaintiff refused to go, telling his superiors that it was wrong, and possibly illegal, to continue. He was fired on the spot. Plaintiff filed suit, alleging that he was fired for reporting or complaining about possible environmental violations.

Louisiana Revised Statute, section 30:2027 provides that "No . . . employer . . . shall act in a retaliatory manner against an employee, acting in good faith, who reports or complains about possible environmental violations," and allows employees against whom such action is taken to bring a civil suit against the employer for treble damages. LA. REV. STAT. ANN. § 30:2027 (West 1989).

The trial court, interpreting the statute to require knowledge by the employer of a report or complaint to a governmental agency, dismissed plaintiff's case because it found that the defendants were unaware that plaintiff had reported them. Plaintiff appealed, contending that a violation of the statute occurs even where the employee complains of possible environmental violations only to his superiors and is fired. First Circuit, Judge Lottinger, did state that the statute will not protect an

individual fired simply for refusing to do his job, but the court's opinion never reached the issue as formulated by plaintiff. Instead the court found that the joint venture's actions of which plaintiff had complained were not "possible environmental violations" within the meaning of the statute.

The court emphasized that La. R.S. 30:2027 is part of the Louisiana Environmental Quality Act, La. R.S. 30:2001-2423. This Act addresses the regulation and control of the discharge of pollutants. The court held that La. R.S. 30:2027 "was obviously intended to deal with violations of the type proscribed under the Louisiana Environmental Quality Act, *i.e.* the discharge of pollutants into the environment, and not violations of other laws of an environmental nature such as those protecting wildlife." Therefore, the dismissal by the trial court was affirmed.

Judge Shortess dissented. He asserted that part of the purpose of the Louisiana Environmental Quality Act was to unify the state's environmental protection laws, and that the broad language of La. R.S. 30:2027 in no way limited its applicability to possible violations of the Environmental Quality Act. He further stated that La. R.S. 30:2027 does indeed apply when the employee has complained only to his superior, and not reported the possible violations to the government.

STEVEN O'ROURKE

Magnolia Coal Terminal v. Phillips Oil Co., 576 So. 2d 475
(La. 1991)

Magnolia Coal Terminal brought an action for damages in state court against Phillips Oil Company (Phillips) as the successor to the company that originally drilled a now allegedly leaking oil well. Phillips motioned to remove the case to federal court but the case was remanded back due to a lack of complete diversity. Phillips then filed "restated" exceptions of no right and no cause of action, asserting that exclusive jurisdiction over disputes arising out of leaking wells, plugging, and cleaning of oil well sites was vested in the office of Commissioner of Conservation. Phillips also sought a stay of the judicial proceedings which was denied by the trial court. The Louisiana Appellate and Supreme Courts declined to exercise supervisory jurisdiction over the trial court's decision. Concurrently, at Phillips' request and pursuant to Louisiana Revised Statute 30:6(F), the Commis-