



JUGE NAPOLITANO

GUILBEAU RULI FRIEMAN APLC

**John Kinnon v. Lockheed Missiles And Space Co., Inc. and Ace American Ins Co.**

This complex case involved a jurisdictional dispute, specifically whether the claimant was a maritime employee covered by the LHWCA.

In this complex case, John Kinnon worked for Lockheed for 20 years as a missile assembler at the Kings Bay Naval Base situated on the Georgia Atlantic Coast at the time of his accident. His claim was based upon a trip and fall in a designated parking lot on the Base, resulting in significant injuries and medical complications essentially rendering him permanently and totally disabled (PT).

At the time of his injury, the claimant was a Sr. Missile Assembler, who assembled missile components for installation in nuclear-powered submarines at the base. His employment duties were conducted in a so-called Controlled Area geographically separated from the Waterfront Area in the huge Naval Base by 2 miles as the crow flies and 4 to 6 miles along controlled roadways guarded periodically by Marines in machine-gun equipped towers, as seen in the photo below.



This case became about a jurisdictional dispute, specifically whether the claimant was a maritime employee covered by the LHWCA. The defense disputed Longshore jurisdiction because the claimant lacked maritime status because he performed no duties associated with loading/unloading vessels or vessel repair, but rather he performed his work duties in a non-maritime situs.

The plaintiff and counsel argued that the entire nuclear base was a maritime situs because it was located adjacent to the Atlantic Ocean and that the Controlled Area was an *adjoining area* to the waterfront area where submarines and other vessels were loaded and unloaded and maintained, citing 33 USC Section 903(a).

The parties and the ALJ delved into a detailed case about whether the claimant worked with any component parts that actually made it on to a submarine via the missiles or otherwise.

The claimant had no direct duties associated with the loading or unloading or maintenance of submarines or any vessels. He primarily argued that a nuclear submarine could not achieve its mission without the missile/weapons upon it.

The ALJ distinguished the *mission related employment* from the *operational-related employment* of vessels in his analysis of status, citing a very persuasive decision in which an aircraft and its operation were distinguished from its use as a weapon on an aircraft carrier. Neither the aircraft carrier nor the submarine needed its weapons (whether missiles or aircraft) to functionally operate in contrast to operationally essential component parts like props or bridge radar/sonar.

The claimant's missile assembly work therefore may have contributed to a submarine's mission but not its operation. The ALJ determined that the claimant did not perform any maritime duties and lacked maritime status. Because the Controlled Area was physically and geographically separated from the waterfront area where maritime activity did take place, it was not considered an *adjoining area* and there was no maritime situs either.

Incidentally prior to filing his Longshore claim Kinnon's claim for benefits under the State of Georgia Worker's Compensation Law had been denied because of a quirky aspect of it that required the employer to own and control the parking lot in order for an accident therein to be covered. In this case the US Navy owned and controlled the parking lot, not Lockheed.

The stakes in this case were high as claimant had incurred over \$960,000.00 in medical expenses by the time of formal hearing and his AWW was \$1027.07. Kinnon's only remaining remedy thereafter was the LHWCA.