

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ROLANDO LOPEZ

CIVIL ACTION

VERSUS

QUALITY CONSTRUCTION &
PRODUCTION, LLC. ET AL.

NO. 20-00250-BAJ-EWD

RULING AND ORDER

Before the Court is Defendant C&G Boats, Inc.'s **Motion for Partial Summary Judgment on Seaman Status (Doc. 36, the "Motion")**, which seeks dismissal of Plaintiff's claims under the Jones Act, 46 U.S.C. § 30104, *et seq.*, because Plaintiff does not qualify as a seaman under the Act. Plaintiff opposes the Motion but does not challenge C&G Boats' attack on his seaman status. (Doc. 39). Instead, Plaintiff asks the Court to remand this case for lack of subject matter jurisdiction.¹ The Court declined to remand, finding that subject matter jurisdiction existed under the Outer Continental Shelf Lands Act (OCSLA), 43 U.S.C. § 1349(b)(1). (Doc. 51). Plaintiff, anticipating this adverse turn of events, urged in his Opposition to C&G Boats' Motion that were the Court to retain jurisdiction, Plaintiff's remaining claims "against C&G [should] survive, nonetheless." (Doc. 39 at 5). In other words, Plaintiff

¹ At the time C&G Boats filed its Motion, Plaintiff's first Motion to Remand (Doc. 8) was still pending before the Court. After C&G Boats' Motion was fully briefed, (*see* Docs. 39, 42), the Court, noting that Plaintiff continued to challenge the Court's subject matter jurisdiction, ordered Plaintiff to refile his Motion to Remand to account for numerous procedural developments that had occurred since the first Motion to Remand was filed. Plaintiff duly filed his Second Motion to Remand on May 19, 2023.

Jones Act.

The Court may grant summary judgment only “if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. Proc. 56(a). “Where the record taken as a whole could not lead a rational trier of fact to find for the non-moving party, there is no ‘genuine issue for trial.’” *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587 (1986). When summary judgment is unopposed, as it is here, “[t]he movant has the burden of establishing the absence of a genuine issue of material fact and, unless he has done so, the court may not grant the motion, regardless of whether any response was filed.” *Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 362 (5th Cir. 1995) (citing *Hibernia Nat’l Bank v. Administracion Cent. Sociedad Anonima*, 776 F.2d 1277, 1279 (5th Cir. 1985)). In this District, however, the Court is required to deem the moving party’s statements of uncontested material facts as admitted if the opposing party does not offer any challenge. *See* M.D. La. LR 56(f).

Here, C&G Boats’ unchallenged Local Rule 56 Statement of Material Facts (Doc. 36-1) establishes that Plaintiff was not a crew member of the vessel on which he was injured, was not a crew member of any vessel, and almost exclusively performed his employment duties on platforms permanently affixed to the Outer Continental Shelf of the Gulf of Mexico. For these reasons, Plaintiff is not eligible for seaman status under the Jones Act, and his Jones Act claims will be dismissed with prejudice. *Becker v. Tidewater, Inc.*, 335 F.3d 376, 391 (5th Cir. 2003), *as revised* (July 24, 2003) (holding that “fixed platforms are not vessels” for purposes of the Jones Act).

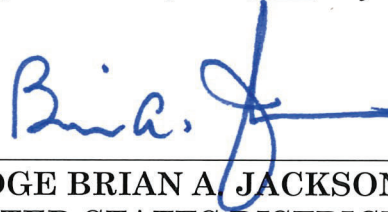
Plaintiff tacitly admits as much by failing to contest the substance of C&G Boats' argument. *See Carney v. Ballard Marine Construction, LLC*, 2021 WL 1401754, at *1 (E.D. La. Apr. 14, 2021) (granting summary judgment to defendant on plaintiff's seaman status where plaintiff failed to oppose the motion); *Skinner v. Schlumberger Tech. Corp.*, No. CV 13-03146, 2014 WL 12543925, at *1 (W.D. La. Nov. 21, 2014), *aff'd*, 655 F. App'x 188 (5th Cir. 2016) (same).

Accordingly,

IT IS ORDERED that CTS's **Motion for Partial Summary Judgment on Seaman Status (Doc. 36)** be and is hereby **GRANTED**.

IT IS FURTHER ORDERED that Plaintiffs' claims under the Jones Act, 46 U.S.C. § 30104, *et seq.*, be and are hereby **DISMISSED WITH PREJUDICE**.

Baton Rouge, Louisiana, this 27th day of March, 2024



**JUDGE BRIAN A JACKSON
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**