

HERMAN L. REID ET AL. v. FORD, BACON & DAVIS
CONSTRUCTION CORPORATION

5-5743

475 S.W. 2d 694

Opinion delivered February 7, 1972

MASTER & SERVANT—INJURIES TO FELLOW EMPLOYEES—MASTER'S DUTY TO PROVIDE LIABILITY COVERAGE.—An employer has no duty arising from an employer-employee relationship to provide liability coverage to an employee, or to inform him he has no such coverage, in order to protect him against the financial danger of liability to fellow employees who may be injured in the course of employment due to his negligence.

Appeal from Union Circuit Court, Second Division,
Melvin Mayfield, Judge; affirmed.

Whetstone & Whetstone, for appellants.

Shackleford & Shackleford, for appellee.

CONLEY BYRD, Justice. Appellant Herman L. Reid was employed by appellee Ford, Bacon and Davis Construction Corporation in 1964 to drive a bus transporting fellow employees to pipeline construction sites. Following an accident on November 24, 1964, in which 26 employees were injured, Reid was sued by appellants James Q. Bryan and Gratha Bryan, his wife, who obtained still unsatisfied judgments of \$75,000 and \$10,000 for Bryan's injuries. Appellee's liability insurer refused to defend Reid because its policy specifically excepted from coverage employees injured by another employee in the course of his employment. This refusal was upheld in the federal district and circuit courts, as mentioned in *Bryan v. Ford, Bacon & Davis*, 246 Ark. 327, 438 S. W. 2d 472 (1969), a workmen's compensation case.

In this case, filed Sept. 19, 1967, appellants urge that appellee is liable to Reid, the bus driver, and Bryan, his judgment creditor, on account of its breach of duty to either provide insurance to the bus driver or to inform the bus driver in advance that he had no such coverage. Appellee's motion to dismiss was granted in federal district court and on appeal to the Court of Appeals was

remanded to Union Circuit Court for jurisdictional defects. Thereafter the trial court dismissed the complaint for failure to state a cause of action.

The basic allegation is that Reid, an employee, driving an ancient bus over rough and dangerous terrain, would be liable to his fellow employee-passengers for simple negligence in driving, a danger which he should be protected against or forewarned about. In making their assertions, appellants cite no authority.

Our legislature over the years has passed a great many protective laws, shielding Arkansas employees from many known dangers. However, the General Assembly has not seen fit to provide any legislative shield against the financial danger of which appellants complain. The General Assembly has not, and we can not.

Affirmed.
