

STINSON, ADMINISTRATRIX, *v.* ATLANTIC
COAST LINE RAILROAD CO.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME
COURT OF ALABAMA.

No. 442. Decided November 18, 1957.

In this case arising under the Federal Employers' Liability Act, certiorari granted; judgment reversed and cause remanded for consideration of any grounds not disposed of on the first appeal and, if none has merit, with instructions to reinstate the judgment awarding damages to petitioner.

(a) This Court agrees with the finding of the Supreme Court of Alabama that there was sufficient evidence for the jury to find that there was negligence on the part of respondent railroad.

(b) The evidence also presented a jury question whether the employee's death resulted in whole or in part from such negligence.

Reported below: 266 Ala. 244, 96 So. 2d 305.

Joseph S. Lord, III for petitioner.

Peyton D. Bibb and *Norman C. Shepard* for respondent.

PER CURIAM.

The petition for writ of certiorari is granted. The Supreme Court of Alabama held that "there was sufficient evidence for the jury to find that there was negligence on the part of the Atlantic Coast Line Railroad Company." 264 Ala. 522, 527, 88 So. 2d 189, 193. We agree. We now hold that the evidence also presented a jury question whether the employee's death resulted in whole or in part from such negligence. 35 Stat. 65, 45 U. S. C. § 51; *Rogers v. Missouri Pacific R. Co.*, 352 U. S. 500; *Schulz v. Pennsylvania R. Co.*, 350 U. S. 523. The judgment of the Supreme Court of Alabama is therefore reversed and the cause is remanded for consideration of any grounds not disposed of on the first appeal; and, if none has merit, with instructions to reinstate the judgment entered on the jury verdict of June 12, 1953,

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awarding the petitioner damages of \$46,600. *Urie v. Thompson*, 337 U. S. 163.

For the reasons set forth in his opinion in *Rogers v. Missouri Pacific R. Co.*, 352 U. S. 500, 524, MR. JUSTICE FRANKFURTER is of the view that the writ of certiorari is improvidently granted.

MR. JUSTICE BURTON dissents.

MR. JUSTICE HARLAN, while believing that certiorari should be denied, considers that *Rogers v. Missouri Pacific R. Co.*, *supra*, requires him to concur in the result.

CITY OF NASHVILLE ET AL. *v.* UNITED STATES ET AL.

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF TENNESSEE.

No. 365. Decided November 18, 1957.*

Judgment affirmed.

Reported below: No. 365, 155 F. Supp. 98.

Allison B. Humphreys, Harold Seligman and William Waller for appellants in No. 365.

Judson Harwood for appellants in No. 519.

Solicitor General Rankin and Robert W. Ginnane for the United States and the Interstate Commerce Commission, appellees.

W. L. Grubbs, John J. Hooker and William H. Swiggart for the Louisville & Nashville Railroad Co., appellee.

PER CURIAM.

The motions to affirm are granted and the judgment is affirmed.

*Together with No. 519, *Lambert et al. v. United States et al.*, also on appeal from the same court.