UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 96-60410
Summary Calendar

WILLIAM FRAZIER

Plaintiff-Appellant,

VERSUS

NATIONAL UNION FIRE INSURANCE CO. OF PITTSBURGH, PA

Defendant-Appellee.

Appeal from the United States District Court
For the Southern District of Mississippi
(4:95-CV-110-LN)

November 11, 1996

Before SMITH, DUHÉ and BARKSDALE, Circuit Judges.

PER CURIAM:[1]

Appellant Frazier sued Appellee National Union to recover punitive damages under Mississippi law for failure to properly pay state workers' compensation benefits. Following the partial grant of Appellee's motion to strike certain of Appellant's evidence submitted in opposition to Appellee's Motion for Summary Judgment,

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[1]Pursuant to Local Rule 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

the district court granted summary judgment for Appellee. We affirm.

The district court found that there was no issue of material fact that National Union was reasonable in its position that Frazier's claim for compensation benefits was barred by the applicable period of prescription. Since its actions were reasonable, there was no predicate for awarding punitive damages for failure to pay; despite the fact that the Mississippi Commissioner ultimately found that the claim was not barred by prescription. We have carefully reviewed the record and Judge Lee's detailed opinion and find no error. The issue is not whether National Union's decision was correct but only whether it was reasonable under the circumstances.

Likewise, we find no error in the district court's ruling on the Motion to Strike.

We affirm the decision of the district court essentially for the reasons given by it.

AFFIRMED.