



[Tindle v. Hunter Marine Transp., Inc.](#)

United States District Court for the Western District of Kentucky, Paducah Division

May 19, 2016, Decided; May 20, 2016, Filed

CIVIL ACTION NO. 5:14-CV-00110-TBR-LLK

Reporter

2016 U.S. Dist. LEXIS 66419

DONNA TINDLE, as administrator of the Estate of Jimmie W. Tindle, Plaintiff, v. HUNTER MARINE TRANSPORT, INC., Defendant.

Prior History: [Tindle v. Hunter Marine Transp., Inc., 2016 U.S. Dist. LEXIS 66418 \(W.D. Ky., May 19, 2016\)](#)

Core Terms

e-mails, coins, commemorative, crew, motion in limine, issues, late-husband's, crewmembers

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Judges: Thomas B. Russell, Senior United States District Judge.

Opinion by: Thomas B. Russell

Opinion

MEMORANDUM OPINION AND ORDER

Donna Tindle, as the administrator of her late-husband Jimmie W. Tindle's estate, has filed a

motion *in limine* to preclude any evidence, reference, or testimony regarding certain "commemorative coins" she sent to her late-husband's fellow crewmembers, as well as two e-mails sent by Allen Tindle (her brother-in-law) and Amanda Flory (her daughter) to Hunter Marine Transport, Inc. *See* R. 66 at 1 (Motion in Limine). Mrs. Tindle's Motion in Limine, R. 66, is **GRANTED**.

I.

The general facts of this case are described in the Court's prior opinion, [Tindle v. Hunter Marine Transport, Inc., No. 5:14-CV-00110-TBR-LLK, 2016 U.S. Dist. LEXIS 7053, 2016 WL 270481, at *1-4 \(W.D. Ky. Jan. 21, 2016\)](#). For the sake of judicial economy, the Court incorporates those facts by reference.

II.

A.

Using the inherent [*2] authority to manage the course of trials before it, this Court may exclude irrelevant, inadmissible, or prejudicial evidence through *in limine* rulings. *See* [Luce v. United States, 469 U.S. 38, 41 n.4, 105 S. Ct. 460, 83 L. Ed. 2d 443 \(1984\)](#) (citing [Fed. R. Evid. 103\(c\)](#)); [Louzon v. Ford Motor Co., 718 F.3d 556, 561 \(6th Cir. 2013\)](#); [Mahaney ex rel. Estate of Kyle v. Novartis Pharms. Corp., 835 F. Supp. 2d 299, 303 \(W.D. Ky. 2011\)](#). Unless such evidence is patently "inadmissible for any purpose," [Jonasson v. Lutheran Child & Family Servs., 115 F.3d 436, 440](#)

(*7th Cir. 1997*), though, the "better practice" is to defer evidentiary rulings until trial, *Sperberg v. Goodyear Tire & Rubber Co.*, 519 F.2d 708, 712 (6th Cir. 1975), so that "questions of foundation, relevancy and potential prejudice may be resolved in proper context," *Gresh v. Waste Servs. of Am., Inc.*, 738 F. Supp. 2d 702, 706 (E.D. Ky. 2010). A ruling *in limine* is "no more than a preliminary, or advisory, opinion." *United States v. Yannott*, 42 F.3d 999, 1007 (6th Cir. 1994) (citing *United States v. Luce*, 713 F.2d 1236, 1239 (6th Cir. 1983), *aff'd*, 469 U.S. 38, 105 S. Ct. 460, 83 L. Ed. 2d 443). Consequently, the Court may revisit its *in limine* rulings at any time and "for whatever reason it deems appropriate." *Id.* (citing *Luce*, 713 F.2d at 1239).

B.

Evidence is "relevant" if it has "any tendency to make a fact [of consequence] more or less probable than it would be without the evidence." *Fed. R. Evid. 401*. The standard for relevancy is "liberal" under the Federal Rules of Evidence. *Churchwell v. Bluegrass Marine, Inc.*, 444 F.3d 898, 905 (6th Cir. 2006); *United States v. Whittington*, 455 F.3d 736, 738 (6th Cir. 2006). A piece of evidence "does not need to carry a party's evidentiary burden to be relevant; it simply has to advance the ball." *Dortch v. Fowler*, 588 F.3d 396, 401 (6th Cir. 2009).

Generally speaking, all relevant evidence is admissible. See *Fed. R. Evid. 402*. No rule, however, is without exception: Even relevant evidence may be excluded "if its probative value is substantially outweighed by [the] [*3] danger of . . . unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence." *Fed. R. Evid. 403*. The Court enjoys broad discretion when it decides questions of relevance and possible prejudice. See *Tompkin v. Philip Morris USA, Inc.*, 362 F.3d 882, 897 (6th Cir. 2004).

III.

A.

First, Mrs. Tindle seeks to preclude any reference to certain "commemorative coins" she sent to the crew of the *M/V Elizabeth Ann* after her late-husband's funeral. See R. 66 at 1. The face of those coins bears an inscription that reads something along the lines of: "Jimmie . . . May my life's work stand for who I am. . . . [F]or the boys." R. 66-2 at 138 (Mrs. Tindle's Deposition). The reverse includes Tindle's name and the date of his death. *Id.* Mrs. Tindle argues that the coins are irrelevant to the issues of liability and damages, see R. 66-1 at 2 (Memorandum in Support of Motion in Limine); R. 72 at 2 (Reply), and even if somehow relevant, that the danger of unfair prejudice, confusing the issues, and misleading the jury outweigh the coins' probative value, see R. 66-1 at 2-3. The Court agrees.

Here, the commemorative coins make no fact of consequence more or less likely. Even if Mrs. Tindle "purchased the commemorative coins as [*4] expressions of gratitude" to the crew of the *M/V Elizabeth Ann*, as Hunter Marine says,¹ R. 68 at 2 (Response to Motion in Limine), the Court fails to see how that is relevant in any respect to this *Jones Act* action. It is a stretch, in short, to call Mrs. Tindle's gesture "highly probative regarding the reasonableness of the crewmember[s'] actions" on the days leading up to her husband's tragic death. *Id.*

In any event, though, the commemorative coins' probative value is substantially outweighed by the risk of unfair prejudice, confusing the issues, and otherwise misleading the jury. See *Fed. R. Evid. 403*. To take but one example, the jury might interpret Mrs. Tindle's act of gifting the commemorative coins as indicating her subjective belief about the crew's responsibility for her late-

¹As an aside, Mrs. Tindle's deposition testimony regarding her motive for purchasing the commemorative coins does not appear to support such a theory. See R. 62-2 at 138-39 (Mrs. Tindle's Deposition).

husband's death. However, Mrs. Tindle's subjective beliefs on that score are of no consequence to the merits of the claims advanced in this litigation. Accordingly, the Court will preclude any reference to the commemorative [*5] coins Mrs. Tindle sent to the crew of the *M/V Elizabeth Ann*.

B.

Next, Mrs. Tindle wishes to exclude any reference to two e-mails from her brother-in-law and daughter to Donnie Hall, an employee of Hunter Marine, after her husband's funeral on April 29, 2014. *See* R. 66 at 1. In the first, sent on April 30, Allen Tindle wished to thank the crew of the *M/V Elizabeth Ann* for attending his brother's funeral service. *See* R. 66-3 at 1 (E-mail from Allen Tindle to Donnie Hall). A few days later, on May 2, Amanda Flory expressed her gratitude to the crew "for everything they did for [her] dad an[d] family," and she requested contact information for certain crewmembers who tried to help him. *Id.* at 2 (E-mail from Amanda Flory to Donnie Hall). Mrs. Tindle maintains that those e-mails are neither relevant nor otherwise admissible. *See* R. 66-1 at 3-4; R. 72 at 1-4. Again, Mrs. Tindle is right.

Much as is the case with the commemorative coins, the two e-mails make no fact of consequence more or less likely. Neither Mrs. Tindle nor Hunter Marine designated Amanda Flory or Allen Tindle as witnesses, *see* R. 52 at 1-5 (Mrs. Tindle's Witness List); R. 58 at 1-2 (Hunter Marine's Witness List), presumably because neither [*6] possesses personal knowledge about what happened aboard the *M/V Elizabeth Ann*, *see* R. 66-1 at 4; R. 72 at 1. Again, it is a stretch to say that either e-mail is "highly probative regarding the reasonableness of the crewmember[s'] actions" on the days leading up to Tindle's tragic death. R. 68 at 2. The e-mails are not probative of any issue in this action.

Moreover, even if relevant and otherwise

admissible,² the e-mails' probative value is substantially outweighed by the risk of unfair prejudice, confusing the issues, and otherwise misleading the jury. *See Fed. R. Evid. 403*. For example, the jury might interpret Allen Tindle and Amanda Florey's expressions of gratitude as somehow absolving the *M/V Elizabeth Ann*'s crew of possible negligence. An inference of that ilk would be improper. Therefore, the Court will preclude any reference to the two e-mails Allen Tindle and Amanda Florey sent to Hall.

IV.

IT IS HEREBY ORDERED that the Plaintiff's Motion in Limine, R. 66, is **GRANTED**. Hunter Marine Transport, Inc. shall not introduce evidence or make reference to the "commemorative coins" [*7] Donna Tindle sent to her late-husband's fellow crewmembers, or to the e-mails Allen Tindle and Amanda Florey sent to Donnie Hall as a representative of Hunter Marine Transport, Inc.

IT IS SO ORDERED.

Date: May 19, 2016

/s/ Thomas B. Russell

Thomas B. Russell, Senior Judge

United States District Court

² Because the Court excludes the two e-mails under *Federal Rules of Evidence 401* and *403*, it need not address the significant hearsay issues both e-mails present.

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