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Caldwell v. St. Charles Gaming Co.: The Louisiana Supreme Court Confirms That Riverboat Casinos Are Not Vessels Under General Maritime Law, Despite Inconsistencies with Louisiana Law

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I. OVERVIEW

While employed on the Grand Palais, a casino riverboat, Don Caldwell was injured while operating a scissor lift.¹ Caldwell filed a petition for damages, alleging the Grand Palais was a vessel under general maritime law, making him a seaman under the Jones Act.² The Grand Palais was built as a riverboat casino, in line with Louisiana statute La. R.S. 27:41-113, that allows gaming activities on riverboats that “sail on designated waterways.”³ Although it originally sailed periodically, the riverboat casino in question was moored to its current location in 2001 and has not moved since.⁴ Shoreside-utility lines provide for the operation of the casino and have never been disconnected.⁵ Defendant, St. Charles Gaming Co., filed a motion for summary judgment, arguing the plaintiff is not a seaman and not employed on a “vessel in navigation.”⁶ Plaintiff filed a cross-motion for summary judgment, refuting defendant’s

1. Caldwell v. St. Charles Gaming Co., No. 2019-CC-1238, 2020 WL 499159, at *1 (La. 1/9/20).

2. *Id.* (citing 46 U.S.C.A. § 30104 (2008)); *See* Joseph D. Cheavens, *Terminal Workers’ Injury and Death Claims*, 64 TUL. L. REV. 361, 365 (1989) (stating that it is beneficial to qualify as a seaman under the Jones Act because remedies available to seaman are more generous than those available to other maritime workers; this explains why the plaintiff in the noted case wanted to qualify as a seaman).

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

argument claiming he is, in fact, employed on a “vessel in navigation,” because there is no evidence the riverboat casino is incapable of navigation.⁷

The trial court denied the cross-motions for summary judgment, and both Plaintiff and Defendant sought interlocutory review with the court of appeal.⁸ The Louisiana Third Circuit Court of Appeal, sitting en banc, rendered a split decision, denying the defendant’s application and granting plaintiff’s.⁹ The Third Circuit concluded that the Grand Palais was a vessel at the time of the alleged incident because it had not been “disabled” and was in “fully operational condition as required by law.”¹⁰ Upon review, the Louisiana Supreme Court *held* that although the Grand Palais was initially designed for transportation over water, it was no longer a vessel used in maritime transport. *Caldwell v. St. Charles Gaming Co.*, No. 2019-CC-1238, 2020 WL 499159, at *8 (La. 1/9/20).

II. HISTORICAL BACKGROUND

What constitutes a vessel has long been disputed. Federal maritime jurisprudence initially focused on whether the watercraft in question was permanently attached to either a wharf or shore to determine if it is a vessel under general maritime law.¹¹ More recently, federal jurisprudence has shifted to considering the craft’s purpose and whether it is capable of navigation or transportation.¹² Louisiana jurisprudence on the subject has largely followed suit and focused on riverboat casinos because of their prevalence in the area. Louisiana courts have considered whether the casino is permanently attached to the shore and the casino’s primary purpose, whether that be a maritime activity or dockside gambling.¹³

7. *Id.* at *2.

8. *Id.*

9. *Id.*

10. *Id.* at *3.

11. *See Cope v. Vallette Dry-Dock Co.*, 119 U.S. 625, 2002 AMC 2694 (1887); *Evansville & Bowling Green Packet Co. v. Chero Cola Bottling Co.*, 271 U.S. 19, 1926 AMC 684 (1926).

12. *See Great Lakes Dredge & Dock Co. v. Chi.*, 3 F.3d 225, 1993 AMC 2409 (7th Cir. 1993); *Jerome B. Grubart, Inc. v. Great Lakes Dredge & Dock Co.*, 513 U.S. 527, 1995 AMC 913 (1995); *Stewart v. Dutra Constr. Co.*, 543 U.S. 481, 2005 AMC 609 (2005); *Lozman v. City of Riviera Beach*, 568 U.S. 115, 2013 AMC 1 (2013).

13. *See Breaux v. St. Charles Gaming Co.*, 2010-1349 (La. App. 3 Cir. 6/22/11) 68 So.3d 684; *Lemelle v. St. Charles Gaming Co.*, 2011-255 (La. App. 3 Cir. 2012) 118 So.2d 1; *Benoit v. St. Charles Gaming Co.*, 2017-101 (La. App. 3 Cir. 2017) 230 So.3d 997.

A. *Federal Law*

The United States Supreme Court has frequently decided what qualifies as a “vessel” under general maritime law. Historically, cases focused on whether the watercraft in question was “permanently attached” to either a wharf or the shore.¹⁴ One of the initial cases the Court considered was *Cope v. Vallette Dry-Dock Co.*, where the owner of a steam-tug filed suit to recover salvage for saving the company’s dry dock from sinking and resulting in a total loss.¹⁵ The Court held that the dry-dock was not a vessel because it was not used for navigation and was permanently attached to the wharf.¹⁶

Almost forty years later, in *Evansville & Bowling Green Packet Co. v. Chero Cola Bottling Co.*, the Supreme Court held that a wharf boat previously in navigation was no longer a vessel after it was permanently attached to the shore.¹⁷ There, the appellant owned a wharf boat that sank, causing damage to the appellee’s merchandise.¹⁸ While in use, the wharf boat was secured to the shore by four or five cables, except when moved to conform to the river’s water level.¹⁹ The Court based its holding on the fact that the wharf boat was “not practically capable of being used as a means of transportation,” and thus not a vessel.²⁰

In later cases, the Supreme Court shifted its focus to the craft’s purpose to decide whether it could be classified as a vessel. In *Great Lakes Dredge and Dock Co. v. Chicago*, the Court held that a craft is a vessel if its purpose is “the transportation of passengers, cargo, or equipment from place to place across navigable water.”²¹ The Court reasoned that the Great Lakes’ barges are “capable of, and have performed” transportation functions.²² Soon after, the Supreme Court affirmed its classification of a barge as a vessel in *Jerome B. Grubart v. Great Lakes Dredge and Dock Co.*²³ The Court explained that despite the barge being fastened to the river bottom, it was at other times used for transportation.²⁴

14. See *Cope*, 119 U.S. at 627.

15. *Id.* at 625.

16. *Id.* at 627-30.

17. *Evansville*, 271 U.S. at 22.

18. *Id.* at 19-20.

19. *Id.* at 20-21.

20. *Id.* at 22.

21. *Great Lakes Dredge & Dock Co. v. Chi.*, 3 F.3d 225, 229, 1993 AMC 2409 (7th Cir. 1993).

22. *Id.*

23. *Jerome B. Grubart, Inc. v. Great Lakes Dredge & Dock Co.*, 513 U.S. 527, 535, 1995 AMC 913 (1995).

24. *Id.*

The Supreme Court has also often decided what kinds of workers qualify as seamen under the Jones Act.²⁵ In *Chandris, Inc. v. Latsis*, the Court held that to qualify as a seaman under the Jones Act the worker's duties must contribute to the vessel's function and the worker must have a connection to the vessel in navigation that is substantial.²⁶ *Chandris* employed the petitioner to maintain and update electronic and communications equipment on a fleet of vessels.²⁷ While sailing for Bermuda on one of the company's vessels, he developed an injury in his right eye and subsequently filed suit.²⁸ The Court determined that a worker that spends less than roughly thirty percent of his time working on a vessel in navigation could not qualify as a seaman.²⁹

The two most recent Supreme Court cases on this issue, *Stewart v. Dutra Constr. Co.* and *Lozman v. City of Riviera Beach*, both looked at whether the watercraft in question was capable of navigation or transportation.³⁰ In 2005, the Supreme Court considered *Stewart*, where the plaintiff was injured while employed on a dredge used to dig trenches under the Boston Harbors.³¹ The dredge was a floating platform that could navigate short distances.³² The Court held that the dredge was a vessel because its primary purpose was navigation.³³ In 2013, the Supreme Court considered *Lozman* and whether a floating home was a vessel.³⁴ The petitioner's home was moored to a marina owned by the city and the city brought a federal admiralty lawsuit in rem.³⁵ The Court held that the floating home was not a vessel capable of transportation because it was not designed to any practical degree for transportation.³⁶

The United States Court of Appeals for the Fifth Circuit cases focus on whether or not the vessel in question is involved in navigation. In *Pavone v. Miss. Riverboat Amusement Corp.*, the Fifth Circuit specifically

25. See 46 U.S.C.A. § 30104 (2006) (The Jones Act dictates that a seaman injured in the course of employment, the personal representative of the seaman can bring a civil action against the employer).

26. *Chandris, Inc. v. Lastis*, 515 U.S. 347, 376, 1995 AMC 1840 (1995).

27. *Id.* at 350.

28. *Id.*

29. *Id.* at 372.

30. See *Stewart v. Dutra Constr. Co.*, 543 U.S. 481, 2005 AMC 609 (2005); *Lozman v. City of Riviera Beach*, 568 U.S. 115, 2013 AMC 1 (2013).

31. *Stewart*, 543 U.S. at 485.

32. *Id.* at 484.

33. *Id.* at 497.

34. *Lozman*, 568 U.S. at 118.

35. *Id.*

36. *Id.* at 130.

dealt with whether a floating casino was a vessel.³⁷ The riverboat casino was permanently moored to the shore but still maintained several features of a vessel in navigation.³⁸ The Fifth Circuit described the casino as a work platform and held that the riverboat casino was removed from navigation and precluded from the status as a vessel under general maritime law.³⁹ Similarly, in *Martin v. Boyd Gaming Corp.*, the Court affirmed that a moored riverboat was not a vessel in navigation because it had no transportation in the performance of its function as a gambling casino.⁴⁰ Two years later, the Fifth Circuit considered *De La Rosa v. St. Charles Gaming Co.*, which dealt with the same casino at issue in the noted case.⁴¹ The court held that the M/V Crown, the vessel that houses the Grand Palais, is not a vessel for purposes of admiralty jurisdiction because the intent of its use was solely as a moored floating casino and the sailing function was merely for show.⁴²

B. State Law

Louisiana law has followed federal jurisprudence when considering whether riverboat casinos are vessels under general maritime law. The Louisiana statute governing riverboat casinos is La. R.S. 27:41, also called the “Louisiana Riverboat Economic Development and Gaming Control Act.”⁴³ The statute authorizes gaming activities to take place on riverboat casinos on designated waterways.⁴⁴ Under the statute, the definition of a riverboat is a vessel or facility which: (1) “carries a valid Certificate of Inspection issued by the United States Coast Guard with regard to the carriage of passengers on designated rivers or waterways;” (2) “carries a valid Certificate of Inspection from the United States Coast Guard for the carriage of a minimum six hundred passengers and crew;” (3) “has a minimum length of one hundred fifty feet;” and (4) “replicates as nearly as practicable historic Louisiana river-borne steamboat passenger

37. *Pavone v. Miss.Riverboat Amusement Corp.*, 52 F.3d 560, 562, 1995 AMC 2038 (5th Cir. 1995).

38. *Id.* at 564.

39. *Id.* at 570.

40. *Martin v. Boyd Gaming Corp.*, 374 F.3d 375, 376-377, 2004 AMC 1944 (5th Cir. 2004).

41. *De La Rosa v. St. Charles Gaming Co.*, 474 F.3d 185, 186, 2006 AMC 2997 (5th Cir. 2006).

42. *Id.* at 187-188.

43. La. Stat. Ann. § 27:41 (2018).

44. La. Stat. Ann. § 27:43 (As amended in 2021) (This statute was amended on June 15, 2021, to authorize gaming activities on certain waterways in St. Tammany Parish).

vessels.⁴⁵ In *De La Rosa*, the United States Fifth Circuit cited multiple Louisiana cases that hold that, since the 2001 amendment to La. R.S. 27:65, Louisiana's riverboat casinos are not vessels in navigation under general maritime law.⁴⁶ La. R.S. 27:65 is the statute governing licenses to conduct gaming activities upon riverboats.⁴⁷ The 2001 amendment authorized licensed riverboats to conduct gaming while the riverboat is docked subject to certain requirements, along with other changes to the statute.⁴⁸

Later, in *Breaux v. St. Charles Gaming Co.*,⁴⁹ the Louisiana Court of Appeal for the Third Circuit held that the *M/V Crown* riverboat casino was not a vessel under general maritime law.⁴⁹ There, the plaintiff was injured while on the gaming boat, held with steel cables to secure the vessel to the dock permanently.⁵⁰ The utilities were also on the shore, but the riverboat casino maintained the equipment necessary for navigation.⁵¹ The court determined that the riverboat casino was not a vessel under maritime law because it was permanently attached to the shore, not performing a traditional maritime activity, and not used for navigation.⁵²

A year later, the Louisiana Court of Appeal for the Third Circuit decided *Lemelle v. St. Charles Gaming Co.*⁵³ In *Lemelle*, a person was injured on the *M/V Crown Casino*, a riverboat casino docked since 2001.⁵⁴ The trial court found the *Crown* to be a vessel, but the Louisiana Third Circuit reversed.⁵⁵ The U.S. Supreme Court granted certiorari and remanded the case for reconsideration in light of *Lozman*, but the parties settled before the review.⁵⁶ Then in 2017, the Third Circuit considered *Benoit v. St. Charles Gaming Co.* and held that the Grand Palais was no

45. La. Stat. Ann. § 27:44 (1991).

46. See *Martin v. Boyd Gaming Corp.*, 374 F.3d 375, 2004 AMC 1944 (5th Cir. 2004); *Hertz v. Treasure Chest Casino*, 274 F.Supp.2d 795 (E.D. La. 7/25/03); *Bourgeois v. Boomtown, LLC*, 2009 WL 5909119 (La. App. 5th Cir. 2009); *In re Silver Slipper Casino Venture*, 264 Fed. App'x 363 (5th Cir. 2008).

47. La. Stat. Ann. § 27:65 (2018).

48. *Id.*

49. *Breaux v. St. Charles Gaming Co.*, 2010-1349 (La. App. 3 Cir. 6/22/11) 68 So.3d 684, 687.

50. *Id.* at 685.

51. *Id.* at 685-86.

52. *Id.* at 687.

53. See *Lemelle v. St. Charles Gaming Co.*, 2011-255 (La. App. 3 Cir. 2012) 118 So.2d 1.

54. *Id.* at 2.

55. *Id.*

56. *Lemelle v. St. Charles Gaming Co.*, 568 U.S. 1141 (2013).

longer a vessel under general maritime law.⁵⁷ There, the plaintiff was injured by a falling ladder while employed on the riverboat casino.⁵⁸ The Court reasoned that the Grand Palais was no longer a vessel because although it was initially designed to transport people over water, it had been moored indefinitely, and its primary purpose was dockside gambling.⁵⁹

III. COURT'S DECISION

In the noted case, the Louisiana Supreme Court relied on precedent from both the United States Supreme Court and Louisiana courts to reverse the Third Circuit Court of Appeal decision.⁶⁰ Writing for the majority, Justice Boddie concluded that the casino in question was not a vessel under general maritime law.⁶¹ First, the court held that riverboat casinos permanently moored are not vessels and that previous cases decided the riverboat casino at issue was not a vessel.⁶² Second, the court relied on federal jurisprudence to determine that while the casino is theoretically capable of navigation, it must be used in maritime navigation to qualify as a vessel under general maritime law.⁶³ The dissent in the noted case argued that because the casino has so many qualities of a traditional vessel, including being fully operational, capable of sailing, and not permanently moored, it should be considered a vessel.⁶⁴

The Louisiana Supreme Court began by discussing jurisprudence from the Louisiana Third Circuit Court of Appeal, which uniformly holds that riverboat casinos permanently moored are not vessels.⁶⁵ The court then analyzed the Supreme Court decision from *Stewart*, which determined that structures may lose their character as vessels if they are not in the water for extended periods.⁶⁶ *Stewart* held that the “in navigation” requirement is an element of vessel status that helps determine whether it can be used for maritime transportation as a practical matter.⁶⁷

57. Benoit v. St. Charles Gaming Co., 2017-101 (La. App. 3 Cir. 2017) 230 So.3d 997, 1001.

58. *Id.* at 998.

59. *Id.* at 1001.

60. See Caldwell v. St. Charles Gaming Co., No. 2019-CC-1238, 2020 WL 499159, at *8 (La. 1/9/20).

61. *Id.*

62. *Id.* at *5.

63. *Id.* at *6.

64. *Id.* at *8.

65. *Id.* at *5.

66. *Id.* (citing *Stewart v. Dutra Constr. Co.*, 543 U.S. 481, 2005 AMC 609 (2005)).

67. *Id.*

In *Stewart*, the Supreme Court relied on *Evansville* and *Pavone* in their decision.⁶⁸ The Louisiana Supreme Court followed suit and also relied on *Evansville* to conclude that the wharf boat previously in navigation was no longer a vessel because it was permanently attached to the shore and used as a floating platform.⁶⁹ Similarly, the court cited *Pavone* with approval, which held that the vessel was removed from navigation and precluded from being a vessel because the casino was a work platform.⁷⁰

The court then turned to a case with specific applicability to the riverboat casino at question in the noted case in *De La Rosa*, from the United States Fifth Circuit.⁷¹ There, the Fifth Circuit held that the same gambling boat at issue in the noted case is not a vessel for admiralty jurisdiction purposes.⁷² *St. Charles Gaming* also referred to the Louisiana Supreme Court to various cases, stating that since the amendment to La. R.S. 27:65, Louisiana's permanently moored casinos are not vessels under maritime jurisdiction.⁷³ La. R.S. 27:65 establishes the licenses to conduct gaming activities upon riverboats.⁷⁴ The revision to the statute made it possible for a docked riverboat to conduct gaming activities if it is reasonably necessary.⁷⁵

The Louisiana Supreme Court used these cases to conclude that the trial court erred in finding maritime jurisdiction in this case, citing *Breaux* for support.⁷⁶ The court noted language in *Breaux* stating that federal jurisprudence has interpreted maritime jurisdictional rules, finding that similar riverboat casinos are outside the definition of a "vessel in navigation."⁷⁷ The finding in *Breaux* was that a floating casino permanently attached to the shore is not a vessel in navigation for purposes

68. *Id.* (citing *Evansville & Bowling Green Packet Co. v. Chero Cola Bottling Co.*, 271 U.S. 19, 1926 AMC 684 (1926); *Pavone v. Miss. Riverboat Amusement Corp.*, 52 F.3d 560, 562, 1995 AMC 2038 (5th Cir. 1995)).

69. *Id.* (citing *Evansville*, 271 U.S. at 19, 1926 AMC at 684).

70. *Id.* (citing *Pavone*, 52 F.3d, 1995 AMC).

71. *Id.* (citing *De La Rosa v. St. Charles Gaming Co.*, 474 F.3d 185, 186, 2006 AMC 2997 (5th Cir. 2006)).

72. *Id.*

73. *Id.* (citing *Martin v. Boyd Gaming Corp.*, 374 F.3d 375, 2004 AMC 1944 (5th Cir. 2004); *Hertz v. Treasure Chest Casino*, 274 F.Supp.2d 795 (E.D. La. 7/25/03); *Bourgeois v. Boomtown, LLC*, 2009 WL 5909119 (La. App. 5th Cir. 2009); *In re Silver Slipper Casino Venture*, 264 Fed. App'x 363 (5th Cir. 2008)).

74. La. Stat. Ann. § 27:65 (As amended in 2021) (This statute was amended on June 15, 2021, to authorize gaming activities on certain waterways in St. Tammany Parish).

75. *Id.*

76. *Id.* (citing *Breaux v. St. Charles Gaming Co.*, 2010-1349 (La. App. 3 Cir. 6/22/11) 68 So.3d 684).

77. *Id.*

of general maritime law.⁷⁸ The Louisiana Supreme Court referenced a similar riverboat casino in *Breaux* and concluded that while the Grand Palais Casino is theoretically capable of navigation, it has not left the dock since 2001, supporting the finding that the use is not for maritime transportation.⁷⁹

The Louisiana Supreme Court relied on the recent U.S. Supreme Court decision in *Lozman* to conclude that the casino in question is not a vessel.⁸⁰ In *Lozman*, the petitioner's floating home was moored to a marina owned by the city.⁸¹ After unsuccessful efforts to evict him, the city brought a federal admiralty suit in rem against the floating structure.⁸² The Supreme Court reversed the Court of Appeals' conclusion that the floating home was a vessel.⁸³ The Supreme Court relied on the phrase "capable of being used . . . as a means of transportation on water."⁸⁴ The Supreme Court concluded that, although the home was not practically incapable of transportation, the fact that it moved significant distances twice in seven years was far too little "actual use" to consider it a vessel.⁸⁵

As briefly mentioned above, the Louisiana Supreme Court relied on another recent U.S. Supreme Court decision in *Stewart* for the idea that the watercraft's use as a means of transportation is "practical and not merely theoretical."⁸⁶ In *Stewart*, the Court considered the application of the statutory definition to a dredge.⁸⁷ The dredge had a captain and crew and other ship features, even though it could only navigate by being towed or manipulating its anchors and cables.⁸⁸ The Court held that the dredge was a vessel because it ordinarily served transportation over water purposes.⁸⁹ The Court distinguished this from *Evansville*, where the wharf boat was not designed to serve a transportation function and did not do so.⁹⁰

78. *Id.*

79. *Id.* at *6.

80. *Id.* (citing *Lozman v. City of Riviera Beach*, 568 U.S. 115, 2013 AMC 1 (2013)).

81. *Lozman*, 568 U.S. at 118.

82. *Id.*

83. *Id.* at 131.

84. *Id.* at 130.

85. *Id.*

86. *Caldwell v. St. Charles Gaming Co.*, No. 2019-CC-1238, 2020 WL 499159, at *7 (La. 1/9/20) citing *Stewart v. Dutra Constr. Co.*, 543 U.S. 481, 2005 AMC 609 (2005).

87. *Stewart*, 543 U.S. at 496.

88. *Id.*

89. *Id.*

90. *Id.*

Returning to the facts of the noted case, the Court determined that although the Court of Appeals relied on *Stewart* to determine that a craft capable for use in maritime transportation is a vessel, the Court in *Lozman* further explained that the definition of a vessel may or may not apply when the craft is used for something else.⁹¹ The guiding principle from *Lozman* is that the “statutory definition of a vessel may or may not apply when the craft has some other primary purpose.”⁹² In this case, Grand Palais’s primary purpose is dockside gambling and the riverboat casino has not engaged in any maritime activity in fourteen years.⁹³ The operations of the casino are also conducted via land-based utility lines.⁹⁴ The Court concluded that although the Grand Palais could be returned to service as a vessel, the evidence establishes that the casino has been moored indefinitely for gaming.⁹⁵

IV. ANALYSIS

While the Louisiana Supreme Court correctly applied the federal and state jurisprudence to find that riverboat casinos are not considered vessels under general maritime law, it is inconsistent with Louisiana law on the issue, and the Court neglected to discuss the statute. La. R.S. 27:44 makes it clear that riverboat casinos are only permitted when they carry a valid inspection from the Coast Guard with regard to the carriage of passengers on designated waterways and a valid certificate for the carriage of a minimum of six hundred passengers and crew.⁹⁶ Thus, this statute can be read only to allow riverboat casinos if they are capable of navigation on designated waterways. Despite this reading of the statute, in the noted case, the Louisiana Supreme Court determined that the Grand Palais was “theoretically” capable of navigation but no longer a vessel, which seems to be in direct conflict with the statute’s requirements.⁹⁷

In the *Caldwell* Court of Appeal decision concurrence, Judge Kyzar and Judge Perry agreed that the Grand Palais was a vessel but stated

91. *Caldwell v. St. Charles Gaming Co.*, No. 2019-CC-1238, 2020 WL 499159, at *8 (La. 1/9/20).

92. *Id.* (citing *Lozman v. City of Riviera Beach*, 568 U.S. 115, 2013 AMC 1 (2013)).

93. *Id.*

94. *Id.*

95. *Id.*

96. La. Stat. Ann. § 27:44 (2018).

97. *Caldwell v. St. Charles Gaming Co.*, No. 2019-CC-1238, 2020 WL 499159, at *8 (La. 1/9/20).

additional reasons for that conclusion.⁹⁸ The judges first looked at the Louisiana Gaming Control Act and determined that the Louisiana legislature chose to allow gambling on “riverboats,” not land-based casinos.⁹⁹ The concurrence defined a riverboat, based on Louisiana law and the Coast Guard certification process, as a “watercraft . . . capable of being used, as a means of transportation on water.”¹⁰⁰ The judges clarified that there is only one land-based casino permitted by law in Louisiana, and all other casinos operate via authority from La. R.S. 27:41.¹⁰¹ To the judges, this meant that if the casinos are not vessels capable of navigation on the water, they are in violation of the law and operating illegally.¹⁰² Applying these concepts to the Grand Palais, the concurring Third Circuit judges concluded that the St. Charles Gaming Company works to keep the riverboat casino in compliance with the statute by maintaining it as a working riverboat.¹⁰³

The concurrence’s analysis is more in line with the statute’s exact language permitting riverboat casinos to operate. The Third Circuit concurrence states that “the operators cannot have it both ways, to be a vessel for casino-licensing purposes but not a vessel for all other legal purposes.”¹⁰⁴ The concurrence determined that the legislature set the prerequisite of riverboat casinos being capable of navigation on waterways, and it is for the legislature to eliminate this requirement.¹⁰⁵ The concurrence emphasizes the plain language of the law as it exists and the fact that the law applied as written does not allow for true dockside gambling until the legislature decides otherwise.¹⁰⁶

Because the Louisiana Supreme Court focuses on the riverboat casino’s navigation capability, this directly contradicts the language of the statute and lends itself better to the Court of Appeal’s concurrence analysis. While holding that the Grand Palais is a vessel might be a change from previous federal jurisprudence, the Louisiana statute adds a different dimension than previously considered by federal jurisprudence and should change the analysis of riverboat casinos as a vessel. This complication

98. *Caldwell v. St. Charles Gaming Co.*, 2018-868 (La. App. 3 Cir. 7/3/19), 279 So. 3d 940, 948 *writ granted*, 2019-01238 (La. 10/15/19), 280 So. 3d 595, and *rev’d*, 2019-1238 (La. 1/29/20).

99. *Id.* at 949.

100. *Id.*

101. *Id.* (citing La. Stat. Ann. § 27:41 (2018)).

102. *Id.*

103. *Id.*

104. *Id.*

105. *Id.*

106. *Id.*

begs the question of whether gambling laws need to change. The necessity of continuing to require that casinos operate on riverboat casinos is especially questionable considering the establishment of Harrah's in New Orleans.

Louisiana established riverboat casinos based on influences from the laws of other states.¹⁰⁷ Because of many lawmaker's hesitance about the vices of gambling, proponents used ideas from other states and framed the benefits of permitting gambling in Louisiana as economic, using riverboats as an acceptable method.¹⁰⁸ Riverboat casinos helped present a romanticized picture of gambling and increased the chances for an authorization of gambling in the state.¹⁰⁹ The original Louisiana statute's relevance is further compromised by Louisiana Senate Bill No. 316 from the 2018 Regular Session. Governor John Bel Edwards signed this law allowing riverboat casinos to move 1,200 feet onto land from their designated space.¹¹⁰ If riverboat casinos are allowed to operate mostly on land, there does not seem to be much of a point in requiring casinos to operate on riverboat casinos and be theoretically capable of navigation.

Furthermore, Supreme Court precedent might indicate that a "watercraft's use as a means of transportation on water is practical and not merely theoretical," but the Louisiana statute complicates using this idea from both *Stewart* and *Lozman* to analyze the noted case.¹¹¹ According to Supreme Court precedent, to be a vessel under general maritime law, a riverboat casino should have to be actually capable of navigation.¹¹² This might make sense under other state law, but it is difficult to use under Louisiana law that states that for a riverboat casino to be authorized, it must *actually* be capable of navigation on designated waterways.¹¹³ A riverboat casino must be able to carry passengers and a crew and the Coast Guard must authorize them to carry these passengers.¹¹⁴ The statute states that riverboat casinos must be actually capable of navigation, which is the opposite of the conclusion in the noted case. This inconsistency is

107. Ronnie Jones, *Riverboat Gaming in Louisiana—Changes on the Horizon?*, INT'L MASTERS GAMING L. (2017), https://www.imgl.org/sites/default/files/media/publications/riverboatgaminginlouisiana_jones_agl_spring2017_full-article.pdf.

108. *Id.*

109. *Id.*

110. SB No. 316 (2018).

111. *Caldwell v. St. Charles Gaming Co.*, No. 2019-CC-1238, 2020 WL 499159, at *8 (La. 1/9/20).

112. *Id.*

113. La. Stat. Ann. § 27:41 (2018).

114. La. Stat. Ann. § 27:43 (As amended in 2021).

confusing and could be alleviated if the riverboat casinos' requirements in Louisiana statutes were lessened or eliminated altogether.

V. CONCLUSION

The Court's holding in the noted case is in line with precedent but leaves many questions with regard to how this decision fits in with Louisiana legislation on riverboat casinos. The Louisiana statute authorizing riverboat casinos states that they must be vessels capable of navigation upon water. Despite the Grand Palais's determination as a vessel for casino licensing, the Louisiana Supreme Court decided that the Grand Palais is not a vessel under general maritime law, an inconsistency that the court does not discuss. The Louisiana statute states that a vessel must be actually capable of navigation, which is the opposite of the conclusion in the noted case. In the future, the inconsistency between the case and statute should be rectified to make Louisiana jurisprudence clearer. If the legislature steps in, the arbitrary historical requirements for riverboat casinos could be lessened or eliminated in light of a changing world.

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