

**Opinion issued November 15, 2018**



**In The  
Court of Appeals  
For The  
First District of Texas**

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**NO. 01-18-00339-CV**

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**ANDRE NAZARETH, Appellant**

**V.**

**MCDERMOTT INTERNATIONAL, INC. AND MCDERMOTT  
INTERNATIONAL VESSELS, INC., Appellees**

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**On Appeal from the 281st District Court  
Harris County, Texas  
Trial Court Case No. 2016-40117**

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**OPINION**

In this appeal from a summary judgment dismissing claims brought under the Jones Act and general maritime law, the issue is whether the injured foreign seaman, Andre Nazareth, met his burden to prove that no remedy is available to him under either the laws of the country asserting jurisdiction over the area in

which the incident occurred (Qatar) or the laws of the country in which Nazareth maintains citizenship or residency (India). 46 U.S.C. § 30105(c). Although Nazareth presented evidence that Qatari and Indian courts would not exercise jurisdiction over his case, he presented no evidence that he cannot pursue a Qatar or India law claim in Texas state court, and he even asserted an India law claim in his live pleading. Because Nazareth failed to meet his burden, we affirm.

### **Background**

Nazareth is a citizen and resident of India. Nazareth used to work as a saturation diver for J Ray McDermott, S.A., a company that provides services to entities in the offshore oil and gas industry. In June 2013, Nazareth was injured while working aboard a vessel owned by two related McDermott entities, McDermott International Vessels, Inc. and McDermott International, Inc., both of which are headquartered in Houston, Texas. At the time of Nazareth's injury, the vessel was over the continental shelf of Qatar, en route from the United Arab Emirates to Saudi Arabia.

Nearly three years after the incident, Nazareth filed suit in Texas state court. He asserted claims against four McDermott entities: (1) McDermott, Inc., (2) J Ray McDermott, S.A., (3) McDermott International, Inc., and (4) McDermott International Vessels, Inc. He later amended his petition to assert claims against only McDermott International and McDermott International Vessels (hereinafter

collectively “McDermott”). As amended, Nazareth’s petition asserted four claims: (1) negligence under the Jones Act, (2) unseaworthiness under general maritime law, (3) negligence under India law, and (4) negligence under *lex maritima*.

McDermott moved for partial summary judgment, arguing that Nazareth’s claims under the Jones Act and general maritime law were barred by the Jones Act’s foreign seamen exclusion. *See* 46 U.S.C. § 30105(b). Nazareth responded that the claims were allowed under the exception to the exclusion. *See id.* § 30105(c). The trial court granted McDermott’s motion and signed an order dismissing Nazareth’s Jones Act and general maritime law claims. McDermott filed a second summary-judgment motion on Nazareth’s remaining claims, which the trial court granted as well.

Nazareth now appeals the trial court’s first summary-judgment order dismissing his claims under the Jones Act and general maritime law. He does not appeal the trial court’s second summary-judgment order dismissing his claims for negligence under India law and *lex maritima*.

### **Summary Judgment**

In his sole issue, Nazareth contends that the trial court erred in dismissing his claims under the Jones Act and general maritime law.

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