

**Case Name:** Michael Campbell v. BNSF Railway Company  
**Date Decided:** April 9th, 2010  
**Originally Filed in:** Tennessee (Federal)  
**Decided by:** U.S. Court of Appeals, Eighth Circuit (Federal)  
**Court:** U.S. Court of Appeals Sixth Circuit  
**Judge:** Judge Keith, Judge Clay, Judge Griffin  
**Citation:** 600 F.3d 667

**Background:**

Hostler driver Michael Campbell for intermodal rail facility brought this action, under [FELA](#) (Federal Employers Liability Act), against railroad, defendant [BNSF Railway Company](#). Campbell alleged that he was an *employee* of BNSF at the time he was injured. Campbell was injured when his railroad transport vehicle was rear-ended at rail yard owned by BSNF. The lower court granted BNSF's motion for summary judgment and Campbell appealed.

**Issue:**

Did the lower court err in granting BNSF summary judgment after finding that Campbell, employee, was not an *employee* of BNSF?

**Overall Issues Discussed or Touched Upon in this Case:**

- *Ruling on Summary Judgment*
- *Applicability of FELA at Issue*

**Held:**

Campbell argued that he was a BNSF employee at the time of the accident Campbell worked for Pacific Rail Services, LLC. In fulfilling its duties, PRS employees are to operate intermodal rail facilities for railroad companies throughout the United States. Such duties generally include "providing the necessary supervisors and support personnel to ensure the facilities run safely, efficiently, and effectively". This Court found that Campbell was not an "employee" of BNSF as required by FELA because at the particular rail yard in which Campbell was injured, only (1) BNSF employee was present. While the lone BNSF employee was charged with observing PRS employees to insure their timely completion of work and adherence to BNSF safety, the BNSF employee did not direct PRS to perform specific tasks. Moreover, this Court found, the BNSF employee had no authority to hire, fire, discipline, train, evaluate, or supervise PRS employees. Accordingly, this Court affirmed the granting of BNSF's motion for summary judgment.

**Comments:**

**The claimant in this action was unable to classify as an "employee" under FELA. While**

**a claimant may not be directly employed by a railroad, he/she may still have a claim if they perform work under the railroad's direction, command, and subject themselves to railroad policy. If so, they may be considered a "servant" and thus, able to invoke FELA as a claim. Steve Gordon**