

**Case Name:** Jeffery A. King v CSX Transportation, Inc.  
**Date Decided:** March 20th, 2009  
**Originally Filed in:** ()  
**Decided by:** (State)  
**Court:** Court of Appeals of Ohio â€" 6th District - Lucas County  
**Judge:** District Judge Skow  
**Citation:** 2009 WL 806605 (Ohio App. 6 Dist.)

**Background:**

Jeffrey King appealed from an entry of judgment in favor of CSX Transportation ("CSX"). On January 20, 2005, King was injured when he fell from the side of a moving railcar, while performing his duties as a conductor for CSX. King was subsequently treated for a sprained knee and a lumbar strain. King filed suit against CSX, pursuant to the Federal Employers' Liability Act ("FELA"). He his company-provided anti-slip footwear did not allow his foot to change positions before he landed on the ground. Therefore, his knee and foot fell at an awkward angle and he suffered injuries. The trial was held before a jury. King argued a theory of negligence, stating that his footwear caused him to fall from the railcar. CSX introduced a video, which demonstrated the ability of the footwear to work in a situation similar to King's. King and CSX both disputed the testimony of Joseph Tumasian, a former employee of CSX who was injured while working. The lower court then instructed the jury not to consider Tumasian's testimony as evidence of negligence by CSX. The jury rendered a verdict in favor of CSX, finding they were not negligent under FELA. They were therefore not responsible for King's injuries. King appealed.

**Issue:**

(1) Whether the footwear video should have been presented to the jury, and (2) whether Tumasian's testimony should have been considered as evidence of negligence by CSX.

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

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**Held:**

The Court first examined the footwear video. King contended the video was irrelevant and should not have been admitted. The Court held the video was relevant because it weakened King's claims about the boots. Thus, the trial court did not abuse its discretion by permitting CSX to show the video to the jury. The Court further noted that the lower court's decision to exclude Tumasian's testimony will only be reversed if there was a clear abuse of discretion. Evidence of former accidents are admissible to show an unsafe condition and a defendant's knowledge of such a condition. The Court next determined that the danger of prejudice or confusion to the jury was substantially outweighed by the value of the evidence. The trial judge

was concerned the similarities between Tumasian's testimony and the present case would cause prejudice. The Court held the evidence of Tumasian's accident, which occurred after King's, was inappropriate to show CSX was at fault. The lower court properly restricted Tumasian's evidence from being considered by the jury.

**Comments:**

King argued that the video evidence was not 'relevant' and should not have been admitted. Relevant evidence is defined as evidence "which has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." Simply put, relevant evidence allows for decisions to be made more easily. Steve Gordon <http://www.gordon-elias.com>