

Hornbeck Offshore Services Decision

APRIL 11, 2013

On April 9, 2013, the U.S. Court of Appeals for the Fifth Circuit issued a 2-1 ruling overturning a decision of the U.S. District Court for the Eastern District of Louisiana and determining that the Department of Interior was not in civil contempt of an injunction barring it from enforcing a moratorium on oil and gas drilling operations on the Outer Continental Shelf ("OCS") following the *Deepwater Horizon* incident. Despite the injunction, the government had issued a second moratorium to the same effect. The decision highlights the challenges private party litigants face in trying to hold the government in civil contempt for disobeying a district court's order.

In response to the incident, the Department had imposed a six-month moratorium on oil and gas drilling operations on the OCS. Over 40 companies in the oil and gas production industry challenged the moratorium in district court. The district court agreed with the companies and issued an injunction that prohibited the government from enforcing the moratorium.

Nevertheless, the government issued a second moratorium and the district court found it in civil contempt of the district court's injunction and awarded the plaintiffs \$530,000 in legal fees and costs.

On appeal, the Fifth Circuit reversed the district court and held that the government was not in civil contempt of the injunction because it had complied with the injunction's requirements and cured the deficiencies associated with the first moratorium.

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