

10/30/00

**SUPREME COURT OF LOUISIANA**

**NO. 00-C-0628**

**FLOYD JOSEPH**

**VERSUS**

**BROUSSARD RICE MILL, INC. ET AL.**

**Johnson, J., Concurs in part and Dissents in part.**

I agree with the majority that the jury erred in assigning any percentage of fault to plaintiff, Floyd Joseph. Clearly, this worker was doing the task assigned. There is no evidence that he created or contributed to this dangerous situation. Nor is there any evidence that he performed this task in a negligent fashion.

I disagree with the majority's conclusion as to the apportionment of fault between Broussard Rice Mill, Inc. and the Lake Charles Stevedores. From all the evidence, reasonable minds can only conclude that Broussard was responsible for glueing and stacking the rice and that Broussard failed in its duty to properly glue and stack the rice sacks before they left the rice mill on pallets. The lower courts were correct to assign the greater percentage of fault to Broussard because of this active negligence. The fault of the Stevedores in failing to notify Broussard of its own negligence pales by comparison, and I would assign 85% negligence to Broussard and 15% negligence to the Stevedores.