PER CURIAM.

Order affirmed in open court on authority of Commissioner of Internal Revenue v. Schuyler, 1952, 2 Cir., 196 F.2d 85.

1

Samuel Wilson MONTGOMERY, Appellant, v. UNITED STATES of America, Appellee.

No. 11505.

United States Court of Appeals
Sixth Circuit.

May 27, 1952.

Appeal from the United States District Court for the Western District of Kentucky, Louisville; Roy M. Shelbourne, Judge.

William Crampton, Washington, D. C., for appellant.

David C. Walls, U. S. Atty., Louisville, Ky., for appellee.

Before SIMONS, Chief Judge, and ALLEN and MARTIN, Circuit Judges.

PER CURIAM.

This case came on to be heard upon the record and briefs, oral argument being waived.

On consideration whereof, it is ordered that the judgment of the District Court denying appellant's motion to vacate sentence be, and it hereby is affirmed upon the authority of Hunter, Warden v. Martin, 334 U.S. 302, 68 S.Ct. 1030, 92 L.Ed. 1401.

2

Ramon REMINE, Appellant, v. UNITED STATES of America, Appellee.

No. 11516.

United States Court of Appeals
Sixth Circuit.

May 27, 1952.

Appeal from the United States District Court for the Eastern District of Tennessee, Greeneville; Robert L. Taylor, Judge.

Ramon Remine, in pro per.

Otto T. Ault, U. S. Atty., Knoxville, Tenn., for appellee.

Before MARTIN, McALLISTER and MILLER, Circuit Judges.

PER CURIAM.

The appeal in this criminal case came on to be heard on the briefs submitted by the appellant, Raymon Remine, and by the United States Attorney for the appellee, and on the record in the case;

From all of which it appears, from the opinion of the District Judge filed February 17, 1944, and from the order dated September 20, 1951, entered by the successor District Judge overruling the motion to vacate the judgment and sentence, that there is no merit in the points made by appellant;

The order overruling the motion to vacate the judgment and sentence is affirmed.

3

R. L. POLK & CO., a Delaware Corporation, Appellant, v. Richard C. MUSSER and Standard Directories, Inc.

No. 10707.

United States Court of Appeals
Third Circuit.

Argued May 23, 1952.

Decided June 4, 1952.

Appeal from the Judgment of the United States District Court for the Eastern District of Pennsylvania.

Everett H. Wells, Detroit, Mich. (Newbourg, Grugg & Junkin, Philadelphia, Pa., on the brief), for appellant.

No oral argument for appellees.

Before McLAUGHLIN and STALEY, Circuit Judges, and BURNS, District Judge.

PER CURIAM.

This is a copyright infringement case in which the court below found that what copying was done of plaintiff's work fell short of being substantial as that term applies to copyright infringement. There is ample support for that finding in the record.

The judgment of the district court will be affirmed.

1

Stanford JAMES, Appellee, v. PENNSYLVANIA RAILROAD COMPANY, Appellant.

No. 10679.

United States Court of Appeals
Third Circuit.

Argued May 22, 1952.

Decided June 4, 1952.

Appeal from Judgment of the United States District Court for the Western District of Pennsylvania; Owen McIntosh Burns, J.

Bruce R. Martin, Dalzell, Pringle, Bredin & Martin, on the brief, Pittsburgh, Pa., for appellant.

John E. Evans, Jr., Pittsburgh, Pa. (Evans, Ivory & Evans, Pittsburgh, Pa., on the brief), for appellee.

Before McLAUGHLIN, KALODNER and STALEY, Circuit Judges.

PER CURIAM.

The primary question here was—When should appellee have known that he had the silicosis condition from which he claimed to be suffering at the time of the trial? This was properly submitted to the jury by the district judge under the doctrine of Urie v. Thompson, 337 U.S. 163, 170, 69 S.Ct. 1018, 93 L.Ed. 1282.

Any inference unfavorable to appellant that might have been drawn from the trial court's comment with reference to a statement taken by appellant's claim department and used in cross-examination of an appellee witness was, we think, eliminated by the court's specific direction to the jury to disregard such comment. In any event there is no substantial error arising out of the incident.

We have examined all of appellant's remaining points and we find them without merit.

We note with strong disapproval that appellant's attorney not only failed to appear at the oral argument but failed to notify the court that he would not be present or to offer any excuse for his conduct.

The judgment of the district court will be affirmed. 101 F.Supp. 241.

2

Martin ACCARDO, Appellant, v. UNITED STATES of America, Appellee.

No. 14004.

United States Court of Appeals
Fifth Circuit.

June 12, 1952.

Appeal from the United States District Court for the Southern District of Florida; Charles A. Dewey, Judge.

Dan Chappell, Leonard R. McMillen, Miami, Fla., for appellant.

Herbert S. Phillips, U. S. Atty., Tampa, Fla., for appellee.

Before HUTCHESON, Chief Judge, and RUSSELL and STRUM, Circuit Judges.

PER CURIAM.

The facts of this case bring it within the ruling of this court in Poretto v. United States, 5 Cir., 196 F.2d 392 and Marcello v. United States, 5 Cir., 196 F.2d 437, and require that the judgment of the trial court be reversed and that judgment be here rendered, discharging the defendant.

Judgment reversed and rendered.

STRUM, Circuit Judge, dissents.