

SUPREME COURT OF INDIANA

Funston v. School Town of Munster

849 N.E.2d 595 (Ind. 2006) · No. No. 45S03-0506-CV-262 · Decided June 28, 2006

SUMMARY

The Indiana Supreme Court affirmed summary judgment for the School Town of Munster in a negligence action arising from Howard Funston’s fall from unsecured bleachers. The court held that the undisputed facts established Funston’s contributory negligence and that his negligence was a proximate cause of his injuries, barring recovery against the governmental defendant under Indiana common law. Justice Rucker dissented, concluding that the negligence and proximate-cause issues presented conflicting factual inferences inappropriate for summary judgment.

CASE DETAILS

COURT	Supreme Court of Indiana
WRITING FOR THE COURT	Justice Dickson; Chief Justice Shepard; Justice Sullivan; Justice Boehm; Justice Rucker
JURISDICTION	Indiana
DECIDED	June 28, 2006
DOCKET	No. 45S03-0506-CV-262
DISPOSITION	affirmed
PROCEDURAL POSTURE	The Funstons appealed the trial court's grant of summary judgment to the School Town of Munster on the ground that Howard Funston was contributorily negligent as a matter of law. The Indiana Court of Appeals reversed, and the Indiana Supreme Court granted transfer.
STANDARD OF REVIEW	Summary judgment is proper when the designated evidence shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Facts and reasonable inferences are construed in favor of the nonmoving party. Contributory negligence ordinarily presents a question of fact, but becomes a question of law when the undisputed facts permit only a single reasonable inference.
PRECEDENTIAL VALUE	Published Indiana Supreme Court opinion; precedential authority.
PARTIES	Howard Funston, Merry Funston v. School Town of Munster

TOPICS

contributory negligence

summary judgment

proximate cause

municipal liability

standard of review

PRACTICE AREAS

torts

civil procedure

municipal law

appellate procedure

QUESTIONS PRESENTED

1. Whether Howard Funston was contributorily negligent as a matter of law under the undisputed facts.
2. Whether Funston's contributory negligence was a proximate cause of his injuries as a matter of law.
3. Whether summary judgment was proper where the School Town of Munster was a governmental defendant subject to common-law contributory negligence rather than the Indiana Comparative Fault Act.

HOLDINGS

1. Because the Indiana Comparative Fault Act excludes governmental entities, common-law contributory negligence remains applicable to claims against the School Town of Munster. Any negligence by Funston that proximately contributed to his injury, even if slight, would completely bar recovery against the school.
2. Although contributory negligence is generally a question of fact, it may be decided as a matter of law on summary judgment when the undisputed facts support only one reasonable inference.
3. Funston's negligence was a proximate cause of his injuries as a matter of law because falling backward and sustaining injury was a foreseeable natural and probable consequence of leaning backward from a visibly unsupported top bleacher row.

KEY QUOTATIONS

“Contributory negligence is generally a question of fact requiring trial by jury or court, but summary judgment may be proper where the undisputed facts and resulting inferences establish that the defendant is entitled to judgment as a matter of law.” (597)

“We find from the undisputed facts that only a single inference can reasonably be drawn: Mr. Funston was negligent to some degree, and this is enough to establish the common law defense of contributory negligence as a matter of law.” (600)

“The defense of proximate cause requires only that a plaintiff's negligence be "a" proximate cause, that is, one of the proximate causes.” (600)

FACTUAL BACKGROUND

Howard Funston attended an Amateur Athletic Union basketball game at Munster High School and sat on the top row of one of several identical portable aluminum bleacher sets. The top row had no back railing, and the absence of a back support was clearly visible. After crossing his legs and leaning backward while attempting to get comfortable, Funston fell and was injured. He had previously watched two games while sitting on lower rows of other identical bleachers and leaning against higher rows for support.

PROCEDURAL HISTORY

Howard Funston was injured after falling backward from the top row of portable bleachers at a Munster High School basketball game. The trial court granted the School Town of Munster summary judgment based on contributory negligence. The Court of Appeals reversed, and the Indiana Supreme Court granted transfer and affirmed the trial court.

DISPOSITION

affirmed

CASES CITED

- Funston v. Sch. Town of Munster, 822 N.E.2d 985 (Ind. Ct. App. 2004)
- Rhodes v. Wright, 805 N.E.2d 382, 385, 388 (Ind. 2004)
- Butler v. City of Peru, 733 N.E.2d 912, 915, 917 (Ind. 2000)
- Catt v. Bd. of Comm'rs, 779 N.E.2d 1, 3 (Ind. 2002)
- Jones v. Gleim, 468 N.E.2d 205, 207 (Ind. 1984)
- Hundt v. La Crosse Grain Co., 446 N.E.2d 327, 329 (Ind. 1983)
- Brown v. N. Ind. Publ. Serv. Co., 496 N.E.2d 794, 798 (Ind. Ct. App. 1986)
- Stallings v. Dick, 139 Ind. App. 118, 124-25, 128, 210 N.E.2d 82, 86-88 (1965)
- Pittsburgh, etc., R.R. Co. v. Spencer, 98 Ind. 186, 1884 WL 5741 (1884)
- Jenney Elec. Mfg. Co. v. Flannery, 53 Ind. App. 397, 98 N.E. 424 (1913)
- Hedgecock v. Orlosky, 220 Ind. 390, 395, 44 N.E.2d 93, 95-96 (1942)
- Meadowlark Farms, Inc. v. Warken, 176 Ind. App. 437, 448, 376 N.E.2d 122, 131 (1978)
- Vernon v. Kroger Co., 712 N.E.2d 976, 981 (Ind. 1999)
- Havert v. Caldwell, 452 N.E.2d 154, 158 (Ind. 1983)
- Bain, Adm'x v. Mattmiller, 213 Ind. 549, 556, 13 N.E.2d 712, 715 (1938)
- Devine v. Grace Const. & Supply Co., 243 Ind. 98, 181 N.E.2d 862 (1962)
- New York Cent. R. Co. v. Glad, 242 Ind. 450, 179 N.E.2d 571 (1962)