

KANSAS COURT OF APPEALS

Washington v. Topeka Rescue Mission

No. 128,836 · No. No. 128,836 · Decided January 9, 2026

SUMMARY

The Kansas Court of Appeals affirmed summary judgment for the Topeka Rescue Mission in a slip-and-fall negligence action. The court held that the plaintiff lacked evidence that the Mission had actual or constructive notice of water on the dormitory floor and had not shown that the Mission adopted a mode of operation making recurring dangerous conditions reasonably foreseeable. The court declined to extend the Kansas mode-of-operation rule to premises generally open to the public.

CASE DETAILS

COURT	Kansas Court of Appeals
WRITING FOR THE COURT	HILL, J.; GARDNER, P.J.; JOAN M. LOWDON, District Judge, assigned
JURISDICTION	Kansas Court of Appeals
DECIDED	January 9, 2026
DOCKET	No. 128,836
DISPOSITION	affirmed
PROCEDURAL POSTURE	Washington appealed the Shawnee District Court's grant of summary judgment to the Topeka Rescue Mission in his premises-negligence slip-and-fall action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, with the facts viewed in the light most favorable to the party opposing summary judgment. Summary judgment is proper when the evidence presents no genuine issue of material fact and reasonable minds could not differ on the conclusions to be drawn.
PRECEDENTIAL VALUE	Published
PARTIES	Gary Washington v. Topeka Rescue Mission

TOPICS

- premises liability
- negligence
- standard of review
- appellate procedure
- personal injury

PRACTICE AREAS

torts

premises liability

negligence

appellate procedure

QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment where the Mission had no actual or constructive notice of the water on the dormitory floor.
2. Whether the Kansas mode-of-operation rule should be extended beyond self-service or retail operations to a faith-based homeless shelter.
3. Whether Washington produced evidence that the Mission adopted a particular mode of operation making recurring dangerous conditions reasonably foreseeable.

HOLDINGS

1. Summary judgment for the Topeka Rescue Mission was proper because Washington offered no evidence that the Mission had actual or constructive knowledge of the water on the dormitory floor and therefore failed to establish the notice required under the ordinary premises-negligence rule.
2. The mode-of-operation rule was inapplicable because Washington presented no evidence that the Mission adopted a particular mode of operation—such as encouraging or permitting baptisms at the shelter—that made recurring dangerous conditions reasonably foreseeable.
3. The court declined to extend the mode-of-operation rule to all premises open to the public, but it did not decide whether the rule could ever apply beyond the self-service industry because Washington failed to produce evidence of a qualifying mode of operation.

KEY QUOTATIONS

“The mode-of-operation rule applies only when the proprietor “adopted a mode of operation which made recurring dangerous conditions reasonably foreseeable and failed to exercise reasonable care under the circumstances.”” (4)

“The particular mode of operation substitutes for the traditional element of notice in a negligence case.” (8)

“But without any evidence of a particular mode of operation adopted by the Mission, the mode-of-operation rule is inapplicable. Summary judgment was appropriate.” (9)

FACTUAL BACKGROUND

In May 2021, Gary Washington lived in a dormitory operated by the Topeka Rescue Mission. After briefly using the restroom, he returned to the dormitory and slipped on water that he had not previously seen. The Mission had no prior notice of the water, and another resident later reported that he had been baptized and had hung wet clothes to dry, although the record did not establish where the baptism occurred or that the Mission encouraged or permitted baptisms at the shelter.

PROCEDURAL HISTORY

Washington sued the Mission after slipping on water on a dormitory floor. The district court granted the Mission summary judgment, concluding that the Mission lacked actual or constructive notice of the water and that the Kansas mode-of-operation rule did not apply because the Mission was not a self-service operation. The Kansas Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- John Doe v. M.J., 315 Kan. 310, 313, 508 P.3d 368 (2022)
- Fisher v. Sears, Roebuck & Co., 207 Kan. 493, 497, 485 P.2d 1309 (1971)
- Little v. Butner, 186 Kan. 75, 81, 348 P.2d 1022 (1960)
- Jackson v. K-Mart Corp., 251 Kan. 700, 701, 704, 707-11, 840 P.2d 463 (1992)
- Hembree v. Wal-Mart of Kansas, 29 Kan. App. 2d 900, 903-04, 35 P.3d 925 (2001)
- Miller v. Dollar General Corporation, No. 22-CV-1137-JAR, 2023 WL 2967940, at *4-5 (D. Kan. 2023)
- FGA, Inc. v. Giglio, 128 Nev. 271, 275-76, 278 P.3d 490 (2012)
- Prioleau v. Kentucky Fried Chicken, Inc., 223 N.J. 245, 249, 122 A.3d 328 (2015)
- Markowitz v. Helen Homes of Kendall Corp., 826 So. 2d 256, 260-61 (Fla. 2002)
- Sarkisian v. Concept Restaurants, Inc., 471 Mass. 679, 683-85, 32 N.E.3d 854 (2015)
- Edwards v. Hy-Vee, Inc., 294 Neb. 237, 244-45, 883 N.W.2d 40 (2016)
- Krom v. National Heritage, Inc., No. 72,504, 1995 WL 18253035, at *3 (Kan. App. 1995)
- State v. Patton, 315 Kan. 1, 16, 503 P.3d 1022 (2022)