

SUPREME COURT OF NORTH DAKOTA

Tidd v. Kroshus

2015 ND 248 (2015) · No. 20140426 · Decided October 13, 2015

SUMMARY

The North Dakota Supreme Court reversed a judgment dismissing Michelle Tidd’s negligence action against Scott Kroshus, arising from a collision between Tidd’s bicycle and Kroshus’s car. The Court held that the district court erred by instructing the jury on the sudden emergency doctrine because the evidence did not show an emergency preceding the collision. The error was not harmless because the instruction could have affected the jury’s assessment of Kroshus’s fault, so the case was remanded for a new trial.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Crothers, Justice; Daniel J. Crothers; Gerald W. VandeWalle, Chief Justice; Dale V. Sandstrom; Carol Ronning Kapsner; Lisa Fair McEvers
JURISDICTION	North Dakota
DECIDED	October 13, 2015
DOCKET	20140426
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Tidd appealed from a judgment entered on a jury verdict finding Kroshus was not at fault and dismissing her negligence action, and from the denial of her motion for a new trial based on the district court's use of a sudden-emergency jury instruction.
STANDARD OF REVIEW	Jury instructions are reviewed as a whole to determine whether they fairly and correctly inform the jury of the applicable law. An instruction unsupported by the evidence is erroneous, and instructional error warrants reversal when it is prejudicial or affects a party's substantial rights; harmless error is evaluated under N.D.R.Civ.P. 61.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Michelle Tidd v. Scott Kroshus

TOPICS

jury instructions

standard of review

harmless error

negligence

appellate procedure

PRACTICE AREAS

negligence

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QUESTIONS PRESENTED

1. Whether the district court erred by instructing the jury on the sudden emergency doctrine when the evidence showed no dangerous situation confronting Kroshus before the collision.
2. Whether the instructional error was harmless under N.D.R.Civ.P. 61.

HOLDINGS

1. The district court erred in instructing the jury on the sudden emergency doctrine because no evidence showed that Kroshus encountered a dangerous situation before the collision; the collision was an ordinary traffic accident rather than an emergency independent of the parties' conduct.
2. The erroneous sudden-emergency instruction was not harmless because it permitted the jury to apply a lesser standard of care to Kroshus and may have affected the jury's determination of liability and fault.

KEY QUOTATIONS

“We hold no evidence exists from which a reasonable person could conclude Kroshus was faced with a dangerous situation before the collision, and the district court erred in instructing the jury on sudden emergency.” (¶ 13)

“Because the instruction allowed the jury to apply a lesser standard of care to Kroshus’ conduct, the instruction may have been a thumb on Kroshus’ side of the judicial scale.” (¶ 17)

“The judgment is reversed, and the case is remanded for a new trial.” (¶ 19)

FACTUAL BACKGROUND

On August 18, 2010, Michelle Tidd was riding a bicycle on a Fargo sidewalk when she collided with Scott Kroshus's car as he entered the street from an alley. Tidd claimed the area was well lit and that her bicycle had lights, while Kroshus testified that it was dark, that the bicycle had no lights, and that he did not see Tidd before the collision. The district court instructed the jury on sudden emergency over Tidd's objection, and the jury found Kroshus not at fault.

PROCEDURAL HISTORY

Tidd sued Kroshus for negligence arising from a collision between her bicycle and Kroshus's vehicle. After the district court instructed the jury on the sudden emergency doctrine, the jury found Kroshus not at fault and judgment was entered dismissing the complaint. The district court denied Tidd's motion for a new trial, and Tidd appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The judgment and order denying the motion for a new trial were reversed, and the case was remanded for a new trial.

CASES CITED

- Cartier v. Northwestern Elec., Inc., 2010 ND 14, ¶ 11, 777 N.W.2d 866
- Harfield v. Tate, 1999 ND 166, ¶¶ 6, 11, 598 N.W.2d 840
- M.M. v. Fargo Pub. Sch. Dist. No. 1, 2010 ND 102, ¶ 24, 783 N.W.2d 806
- Flatt v. Kantak, 2004 ND 173, ¶ 23, 687 N.W.2d 208
- Rittenour v. Gibson, 2003 ND 14, ¶ 15, 656 N.W.2d 691
- Ebach v. Ralston, 510 N.W.2d 604, 609-11 (N.D. 1994)
- Tennyson v. Bandle, 181 N.W.2d 687, 689, 691 (N.D. 1970)
- Scott v. Iverson, 853 P.2d 302, 303-04 (Or. Ct. App. 1993)
- Templeton v. Smith, 744 P.2d 1325, 1326 (Or. Ct. App. 1987)
- Kreidt v. Burlington Northern R.R., 2000 ND 150, ¶ 8, 615 N.W.2d 153
- Gronneberg v. Hoffart, 466 N.W.2d 809, 810, 813 (N.D. 1991)

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