

SUPREME COURT OF FLORIDA

Williams v. Davis

974 So. 2d 1052 (Fla. 2007) · No. SC05-1817 · Decided November 21, 2007

SUMMARY

The Supreme Court of Florida held that the McCain foreseeable-zone-of-risk analysis does not ordinarily impose a duty on owners of private residential property for foliage located wholly within the property's boundaries that obstructs motorists' views. The court held that a duty may arise when foliage extends into the public right-of-way and creates a foreseeable hazard to adjacent traffic. The court quashed the district court's decision and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Anstead, J.; Pariente, J.; Quince, J.; Cantero, J.; Lewis, C.J.; Wells, J.; Bell, J.
JURISDICTION	Florida
DECIDED	November 21, 2007
DOCKET	SC05-1817
DISPOSITION	quashed
PROCEDURAL POSTURE	Review of a decision of the Fifth District Court of Appeal upon a certified question of great public importance concerning a residential landowner's duty to motorists allegedly injured by foliage obstructing the view of an intersection.
STANDARD OF REVIEW	Whether a legal duty exists is a question of law for the court. The Supreme Court reviewed the certified question and the summary judgment record; factual doubts relevant to whether foliage extended into the public right-of-way were resolved in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding precedent on the stated landowner-duty rule.
PARTIES	Beverly Williams v. Cecelia Davis, et al.

TOPICS

duty of care

premises liability

negligence

wrongful death

appellate procedure

PRACTICE AREAS

torts

negligence

premises liability

wrongful death

appellate procedure

QUESTIONS PRESENTED

1. Whether the McCain foreseeable-zone-of-risk analysis applies to a private residential landowner whose foliage allegedly obstructs motorists' view of an adjacent intersection.
2. Whether a private residential landowner owes a duty to adjacent motorists when foliage remains wholly within the boundaries of the property.
3. Whether a duty may arise when conditions on private property extend into the public right-of-way and create a foreseeable hazard to adjacent traffic.

HOLDINGS

1. The McCain foreseeable-zone-of-risk analysis applies to the circumstances presented, but it does not ordinarily impose a duty on a private residential landowner for foliage located wholly within the property's boundaries.
2. A property owner owes a duty under McCain not to permit foliage or other conditions on the property to extend into the public right-of-way so as to create a foreseeable hazard to traffic on adjacent streets.
3. The case must be remanded because whether the foliage extended beyond the property boundaries is a critical factual issue that had not been resolved.

KEY QUOTATIONS

"We answer the reworded certified question in the negative and hold that while the McCain foreseeable zone of risk analysis applies, we conclude that under that analysis owners of private property do not owe a duty to motorists on abutting roadways as to the maintenance of foliage located wholly within the bounds of the property." (1054)

"We conclude that these prior decisions can best be reconciled by a recognition that ordinarily a private residential landowner should be held accountable under the zone of risk analysis principles of McCain only when it can be determined that the landowner has permitted conditions on the land to extend into the public right-of-way so as to create a foreseeable hazard to traffic on the adjacent streets." (1062-63)

FACTUAL BACKGROUND

Twanda Green died after a dump truck struck her vehicle as she turned at the intersection of Pine Street and Sidney Hayes Road in Orlando. Davis alleged that foliage on Williams's residential property obstructed Green's view of traffic at the intersection. The record and briefs did not indicate that the foliage extended beyond Williams's property into the public right-of-way, although the Supreme Court left that factual issue for further proceedings.

PROCEDURAL HISTORY

Cecelia Davis, as personal representative of Twanda Green's estate, sued Beverly Williams and others after Green died in a vehicle collision at an intersection abutting Williams's residential property. The trial court entered summary judgment for Williams, concluding that she owed no duty of care. The Fifth District reversed, holding that the failure to timely respond to a request for admission concerning the duty was not dispositive and that the McCain foreseeable-zone-of-risk analysis could establish a duty. The Supreme Court of Florida reworded the certified question, answered it in the negative as applied to foliage wholly within the property boundaries, quashed the district court's decision, and remanded.

DISPOSITION

quashed

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the Supreme Court's holding, including resolution of whether the foliage extended beyond the property boundaries into the public right-of-way. The Court expressed no view on the effects of the contract or county ordinance on potential liability.

CASES CITED

- McCain v. Florida Power Corp., 593 So. 2d 500 (Fla. 1992)
- Whitt v. Silverman, 788 So. 2d 210 (Fla. 2001)
- Sullivan v. Silver Palm Properties, Inc., 558 So. 2d 409 (Fla. 1990)
- Hardin v. Jacksonville Terminal Co., 175 So. 226 (Fla. 1937)
- Grier v. Bankers Land Co., 539 So. 2d 552 (Fla. 4th DCA 1989)
- Armas v. Metropolitan Dade County, 429 So. 2d 59 (Fla. 3d DCA 1983)
- Morales v. Costa, 427 So. 2d 297 (Fla. 3d DCA 1983)
- Bassett v. Edwards, 30 So. 2d 374 (Fla. 1947)
- Stevens v. Liberty Mutual Insurance Co., 415 So. 2d 51 (Fla. 3d DCA 1982)
- Evans v. Southern Holding Corp., 391 So. 2d 231 (Fla. 3d DCA 1980)
- Davis v. Dollar Rent A Car Sys., Inc., 909 So. 2d 297 (Fla. 5th DCA 2004)
- Bunn v. Bunn, 311 So. 2d 387 (Fla. 4th DCA 1975)
- Continental Assurance Co. v. Carroll, 485 So. 2d 406 (Fla. 1986)