

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, SECOND DIVISION

Bautista v. Verson Allsteel Press Co., 152 Ill. App. 3d 524

504 N.E.2d 772 (Ill. App. Ct. 1987) · No. No. 85-3066 · Decided January 27, 1987

SUMMARY

The Illinois Appellate Court affirmed a defense verdict in a strict products liability action arising from a worker’s hand injuries while operating a press brake machine. The court held that the evidence supported the jury’s findings regarding the absence of a point-of-operation safety device, machine design, and warnings, and found no abuse of discretion concerning discovery sanctions, jury exhibits, or alleged prejudicial remarks.

CASE DETAILS

COURT	Appellate Court of Illinois, First District, Second Division
WRITING FOR THE COURT	Justice Bilandic; Presiding Justice Scariano; Justice Hartman
JURISDICTION	Illinois
DECIDED	January 27, 1987
DOCKET	No. 85-3066
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a jury verdict for defendant in a strict products liability action and from the denial of his post-trial motions.
STANDARD OF REVIEW	The sufficiency of the evidence was reviewed under the manifest-weight-of-the-evidence standard, viewing the evidence in the light most favorable to the appellee. Discovery sanctions and the admission of a demonstrative exhibit into the jury room were reviewed for abuse of discretion. Alleged prejudicial trial conduct was reviewed for reversible prejudice.
PRECEDENTIAL VALUE	Published Illinois Appellate Court opinion
PARTIES	Augustin Bautista v. Verson Allsteel Press Company

TOPICS

- products liability
- strict liability
- discovery dispute
- appellate procedure
- evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the jury's verdict for Verson was against the manifest weight of the evidence on the alleged absence of a point-of-operation safety device.
2. Whether the jury's verdict was against the manifest weight of the evidence on the alleged defective design of the machine.
3. Whether the jury's finding that the warnings were adequate was against the manifest weight of the evidence.
4. Whether the trial court abused its discretion by declining to impose discovery sanctions based on alleged nondisclosure or destruction of evidence.
5. Whether the trial court abused its discretion by allowing a life-sized sketch of the machine to be taken into the jury room.
6. Whether remarks by defense counsel or a witness deprived Bautista of a fair trial and constituted reversible error.

HOLDINGS

1. The verdict for Verson was not against the manifest weight of the evidence because the machine was sold without dies and therefore had no point of operation to guard, and Bautista failed to present evidence that the machine was unreasonably dangerous for lack of such a device at the time of sale.
2. The verdict was not against the manifest weight of the evidence on the alleged design defect because conflicting expert and demonstration evidence supported the jury's conclusion that the machine was not unreasonably dangerous due to its dimensions.
3. The jury's finding that Verson's warning plate, manual, and verbal warnings were adequate was supported by credible evidence and was not against the manifest weight of the evidence.
4. The trial court did not abuse its discretion by declining to impose discovery sanctions because the record did not establish unsatisfied depositions, the plaintiff had not properly sought a ruling on interrogatories, the concealment allegations were unsupported, and the court had already allowed the plaintiff to reopen his case to present related evidence.
5. The trial court did not abuse its discretion by allowing the life-sized sketch into the jury room because both parties extensively used the exhibit and considered it demonstrative of their respective theories.
6. The alleged remarks did not constitute prejudicial conduct sufficient to warrant reversal because the challenged comments were either invited or made outside the jury's presence, were addressed by a curative instruction, or were not sufficiently influential to affect the verdict.

KEY QUOTATIONS

"A strict products liability case is established upon proof that plaintiff's injuries resulted from a defect or condition in the product which rendered it unreasonably dangerous and the defect or condition existed when

the product left the manufacturer's control.” (152 Ill. App. 3d at 529)

“The multifunctional machine is not defective and therefore not unreasonably dangerous merely because of the absence of all the varied safety devices which might or might not be required for its safe operation. The essential element of reasonability cannot be disregarded.” (152 Ill. App. 3d at 530)

“While the duty to warn is a question of law, the sufficiency of the warnings is a question of fact for the jury.” (152 Ill. App. 3d at 531)

FACTUAL BACKGROUND

Bautista, who could not read or write in Spanish or English, was injured while operating a press-brake machine manufactured by Verson. The machine had been sold without dies and therefore without a defined point of operation or point-of-operation safety device. Bautista kept the treadle depressed while removing metal caught in the die, despite being instructed to release it after each operation, and the descending ram severed three fingers on his left hand. The machine carried a warning plate and manual, and an employee had verbally instructed Bautista not to place his hands between the closing dies or keep the treadle depressed.

PROCEDURAL HISTORY

Bautista sued Verson Allsteel Press Company, alleging that a press-brake machine was defectively designed, lacked required safety devices, and carried inadequate warnings. A jury returned a verdict for Verson. During trial, the court allowed Bautista to reopen his case to present evidence concerning alleged discovery violations and evidence suppression; the jury nevertheless found for defendant, and the trial court denied post-trial motions. The Illinois Appellate Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Suvada v. White Motor Co., 32 Ill. 2d 612, 210 N.E.2d 182 (1965)
- Spankroy v. Alesky, 45 Ill. App. 3d 432, 359 N.E.2d 1078 (1977)
- Ford v. City of Chicago, 132 Ill. App. 3d 408, 476 N.E.2d 1232 (1985)
- Stanfield v. Medalist Industries, Inc., 34 Ill. App. 3d 635, 340 N.E.2d 276 (1975)
- Rios v. Niagara Machine & Tool Works, 12 Ill. App. 3d 739, 299 N.E.2d 86 (1973), aff'd, 59 Ill. 2d 79 (1974)
- Turner v. Chicago Transit Authority, 122 Ill. App. 3d 419, 461 N.E.2d 551 (1984)
- Frankenthal v. Grand Trunk Western R.R. Co., 120 Ill. App. 3d 409, 458 N.E.2d 530 (1983)
- Ogg v. City of Springfield, 121 Ill. App. 3d 25, 458 N.E.2d 1331 (1984)
- Martin v. Zucker, 133 Ill. App. 3d 982, 479 N.E.2d 1000 (1985)
- Soto v. E.W. Bliss Division of Gulf & Western Manufacturing Co., 116 Ill. App. 3d 880, 452 N.E.2d 572 (1983)
- Finfrock v. Eaton Asphalt Co., 41 Ill. App. 3d 1020, 355 N.E.2d 214 (1976)

- Ferenbach v. DeSyllas, 45 Ill. App. 3d 599, 359 N.E.2d 1214 (1977)
- Jones v. Healy, 97 Ill. App. 3d 255, 422 N.E.2d 904 (1981)
- Valdivia v. Chicago & North Western Transportation Co., 87 Ill. App. 3d 1123, 409 N.E.2d 457 (1980)
- Kyowski v. Burns, 70 Ill. App. 3d 1009, 388 N.E.2d 770 (1979)
- Main v. Ballymore Co., 116 Ill. App. 3d 1040, 449 N.E.2d 169 (1983)
- Wilkinson v. Mullen, 27 Ill. App. 3d 804, 327 N.E.2d 433 (1975)
- Mokrzycki v. Olson Rug Co., 28 Ill. App. 2d 117, 170 N.E.2d 635 (1960)
- Tague v. Molitor Motor Co., 139 Ill. App. 3d 313, 487 N.E.2d 436 (1985)

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