

SUPREME COURT OF VIRGINIA

Green v. Ingram, 269 Va. 281

608 S.E.2d 917 (2005) · No. Record No. 040480 · Decided March 3, 2005

SUMMARY

The Supreme Court of Virginia reviewed a wrongful-death action arising from the fatal shooting of Christie D. Green by fragments from frangible rounds fired by a police officer during a search-warrant operation. The court held that the plaintiff presented sufficient evidence for a jury to consider gross negligence, but insufficient evidence to support willful and wanton conduct or punitive damages. The judgment was affirmed in part, reversed in part, and remanded for a new trial on gross negligence.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice Lemons; Justice Kinser; Justice Lacy; Justice Agee
JURISDICTION	Virginia
DECIDED	March 3, 2005
DOCKET	Record No. 040480
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Administrator appealed from a judgment entered after the trial court granted the defendants' motions to strike the evidence in a wrongful-death action. The Supreme Court of Virginia reviewed whether the evidence was sufficient to submit gross-negligence and willful-and-wanton-conduct claims to the jury.
STANDARD OF REVIEW	When reviewing a judgment striking the plaintiff's evidence, the court views the evidence and all fair inferences in the light most favorable to the plaintiff, accepts evidence favorable to the plaintiff as true, does not weigh evidence or judge credibility, and affirms the ruling only when it is conclusively apparent that the plaintiff has proven no cause of action.
PRECEDENTIAL VALUE	Published Virginia Supreme Court opinion; precedential.
PARTIES	Katina Green, Administrator of the Estate of Christie D. Green v. George Ingram, Defense Technology Corp. of America

TOPICS

wrongful death

negligence

punitive damages

appellate procedure

standard of review

PRACTICE AREAS

Torts

Wrongful death

Governmental immunity

Punitive damages

Appellate procedure

QUESTIONS PRESENTED

1. Whether the trial court erred in striking the administrator's evidence because the evidence was insufficient to present a jury question on gross negligence.
2. Whether the evidence was sufficient to present a jury question on willful and wanton negligence supporting punitive damages.
3. Whether evidence concerning heroin and firearms found in the residence was improperly admitted.

HOLDINGS

1. The administrator presented sufficient evidence to create a jury question on gross negligence, and the trial court erred in striking the evidence on that claim.
2. The trial court properly struck the evidence supporting willful and wanton conduct and punitive damages.
3. The court did not address the evidentiary assignment of error because the evidence had been offered in support of claims against Buckovich, who was no longer a defendant in the appeal.

KEY QUOTATIONS

“A reasonable jury could conclude that Ingram departed from instruction and training, and fired in a location below the lock rather than between the lock and the frame.” (923)

“The same evidence that supports a jury question on gross negligence does not necessarily support a jury question on willful and wanton conduct.” (924)

“On the facts presented, we agree that no reasonable juror could find that Ingram had actual or constructive knowledge that Green was on the other side of the door.” (924)

FACTUAL BACKGROUND

During a police SWAT operation to execute a search warrant, Sergeant George Ingram fired five frangible shotgun rounds at a locked kitchen door. The first shot was aimed near the deadbolt and the four subsequent shots were fired approximately one inch lower each time in a vertical pattern. Fragments from the rounds killed Christie Green, who was inside the residence and had arrived approximately twenty minutes before the breaching operation. Evidence indicated that SWAT training instructed officers to aim at the latchbolt between the lock and door frame at a downward 45-degree angle, while Ingram's testimony supported an inference that later shots were fired below the lock into an area containing only wood.

PROCEDURAL HISTORY

The administrator originally sued corporate defendants and police officers John B. Buckovich and George Ingram. The corporate defendants were severed for trial; the jury returned a defense verdict for Delaware Defense Technology, and the Supreme Court refused the administrator's appeal in that matter. In the subsequent trial against Buckovich and Ingram, the trial court struck the evidence as to Buckovich, Ingram declined to present evidence, the jury could not reach a verdict, and the court struck the evidence and entered judgment for Ingram. The Supreme Court reversed as to gross negligence, affirmed as to willful and wanton conduct and punitive damages, and remanded for a new trial on gross negligence.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded for a new trial on the issue of gross negligence. The judgment was affirmed as to willful and wanton conduct and punitive damages.

CASES CITED

- *Perdieu v. Blackstone Family Practice Ctr., Inc.*, 264 Va. 408, 568 S.E.2d 703 (2002)
- *Bryan v. Burt*, 254 Va. 28, 486 S.E.2d 536 (1997)
- *Upper Occoquan Sewage Authority v. Blake Construction Co.*, 266 Va. 582, 587 S.E.2d 721 (2003)
- *Austin v. Shoney's, Inc.*, 254 Va. 134, 486 S.E.2d 285 (1997)
- *Williams v. Vaughan*, 214 Va. 307, 199 S.E.2d 515 (1973)
- *Leath v. Richmond, F. & P. R.R.*, 162 Va. 705, 174 S.E. 678 (1934)
- *Colby v. Boyden*, 241 Va. 125, 400 S.E.2d 184 (1991)
- *Ferguson v. Ferguson*, 212 Va. 86, 181 S.E.2d 648 (1971)
- *Meagher v. Johnson*, 239 Va. 380, 389 S.E.2d 310 (1990)
- *Huffman v. Love*, 245 Va. 311, 427 S.E.2d 357 (1993)
- *Booth v. Robertson*, 236 Va. 269, 374 S.E.2d 1 (1988)
- *Alfonso v. Robinson*, 257 Va. 540, 514 S.E.2d 615 (1999)
- *Harris v. Harman*, 253 Va. 336, 486 S.E.2d 99 (1997)
- *Woods v. Mendez*, 265 Va. 68, 574 S.E.2d 263 (2003)
- *Infant C. v. Boy Scouts of America, Inc.*, 239 Va. 572, 391 S.E.2d 322 (1990)
- *Boward v. Leftwich*, 197 Va. 227, 89 S.E.2d 32 (1955)
- *Graddy v. Hatchett*, 233 Va. 65, 353 S.E.2d 741 (1987)
- *Town of Big Stone Gap v. Johnson*, 184 Va. 375, 35 S.E.2d 71 (1945)
- *Frazier v. City of Norfolk*, 234 Va. 388, 362 S.E.2d 688 (1987)