

SUPREME COURT OF NORTH DAKOTA

Fast v. State

2004 ND 111 (2004) · No. 20030310 · Decided June 3, 2004

SUMMARY

The Supreme Court of North Dakota affirmed summary judgment for the State in a negligence action arising from Marcia Fast’s slip and fall on an icy sidewalk at Minot State University. The court held that the record lacked competent, admissible evidence establishing that Fast fell on pooled ice or that the State created an unreasonably dangerous condition through its snow-removal efforts. The court concluded that landowners should not be liable merely because ice forms from snow piled during reasonable snow removal.

CASE DETAILS

COURT	Supreme Court of North Dakota
WRITING FOR THE COURT	Gerald W. VandeWalle, Chief Justice; Carol Ronning Kapsner, Justice; Dale V. Sandstrom, Justice; William A. Neumann, Justice; Mary Muehlen Maring, Justice
JURISDICTION	North Dakota
DECIDED	June 3, 2004
DOCKET	20030310
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiffs appealed from summary judgment dismissing their negligence action against the State of North Dakota.
STANDARD OF REVIEW	Summary judgment is reviewed de novo on the entire record. The evidence is viewed in the light most favorable to the party opposing summary judgment, with that party receiving the benefit of all reasonably available favorable inferences.
PRECEDENTIAL VALUE	Published North Dakota Supreme Court opinion; precedential.
PARTIES	Marcia Fast, Gary Fast v. State of North Dakota

TOPICS

- premises liability
- negligence
- summary judgment
- standard of review
- appellate procedure

PRACTICE AREAS

negligence

premises liability

government tort liability

civil procedure

QUESTIONS PRESENTED

1. Whether the district court properly granted summary judgment when the competent, admissible evidence did not establish that Marcia Fast fell on the alleged pooled ice.
2. Whether the State could be liable for injuries caused by ice formed from melting snow piled during reasonable snow-removal efforts, absent a further act or omission creating an unreasonably dangerous condition.
3. Whether the plaintiffs produced competent, admissible evidence sufficient to raise a genuine issue of material fact concerning negligence.

HOLDINGS

1. Summary judgment was proper because the plaintiffs failed to present competent, admissible evidence from which a reasonable fact finder could find the State liable for Marcia Fast's injuries.
2. A landowner, including the State, is not liable for injuries from ice formed by melting snow piled as a result of snow-removal efforts unless some further act or omission creates an unreasonably dangerous or more hazardous condition.

KEY QUOTATIONS

“It is desirable for landowners to remove snow from sidewalks and they should not be liable for snow removal efforts that do not create an unreasonably dangerous or more hazardous condition.” (§ 12)

“A review of the record reveals no competent, admissible evidence from which a reasonable fact finder could find the State liable for Ms. Fast’s injuries.” (§ 12)

FACTUAL BACKGROUND

Following a spring snowstorm, Minot State University cleared snow from a sidewalk using a Bobcat, but a small finger of snow remained. A nearby low area also allowed melting snow to pool and freeze. Marcia Fast slipped on ice while leaving Pioneer Hall around 1:00 a.m. and broke her ankle; the competent evidence indicated she fell below the remaining finger of snow, not in the pooled-ice area.

PROCEDURAL HISTORY

The district court initially denied the State's motion for summary judgment after finding a factual issue regarding where Marcia Fast fell. On reconsideration, the court granted summary judgment for the State, determining the competent evidence showed she fell on ice below a finger of snow remaining after snow removal rather than on pooled ice. The North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Iglehart v. Iglehart, 2003 ND 154, 670 N.W.2d 343
- Green v. Mid Dakota Clinic, 2004 ND 12, 673 N.W.2d 257
- Anderson v. Meyer Broadcasting Co., 2001 ND 125, 630 N.W.2d 46
- Groleau v. Bjornson Oil Co., Inc., 2004 ND 55, 676 N.W.2d 763
- Skjervem v. Minot State University, 2003 ND 52, 658 N.W.2d 750
- Jackson v. City of Grand Forks, 24 N.D. 601, 140 N.W. 718 (1913)
- Lahren v. United States, 438 F. Supp. 919 (D.N.D. 1977)
- Clark v. Stoudt, 73 N.D. 165, 12 N.W.2d 708 (1944)
- Strandness v. Montgomery Ward, 199 N.W.2d 690 (N.D. 1972)
- Otis v. Anoka-Hennepin School District No. 11, 611 N.W.2d 390 (Minn. Ct. App. 2000)
- Miehl v. Darpino, 53 N.J. 49, 247 A.2d 878 (1968)