SUPREME COURT OF APPEALS OF WEST VIRGINIA

Story v. Worden

210 W. Va. 218 (2001) · Decided November 28, 2001

SUMMARY

The Supreme Court of Appeals of West Virginia reversed a circuit court order granting summary judgment in a premises-liability action arising from injuries caused by a glass storm door. The court held that disputed evidence concerning the door's condition, the defendant's knowledge, and foreseeability created genuine issues of material fact requiring trial.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
JURISDICTION	West Virginia
DECIDED	November 28, 2001
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Circuit Court of Cabell County's order granting defendants summary judgment in a premises-negligence action.
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is proper only when there is no genuine issue of material fact and inquiry into the facts is unnecessary to clarify application of the law. The circuit court's order must contain factual findings sufficient to permit meaningful appellate review.
PRECEDENTIAL VALUE	Published opinion; precedential
PARTIES	Steven L. Story, Guardian of the Estate of Thomas Wiles, a minor v. Estate of Eleanor A. Worden, The Twentieth Street Bank, Harold Thompson, Loretta Allen

TOPICS

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

PRACTICE AREAS

Torts · Premises liability · Civil procedure · Appellate procedure

QUESTIONS PRESENTED

1. Whether summary judgment was proper when the record contained a genuine dispute regarding whether the storm door was defective and whether Twentieth Street Bank knew or should have known of the condition.
2. Whether the circuit court's summary judgment findings were sufficient to permit meaningful appellate review.
3. Whether the child's specific conduct of becoming angry, running to the storm door, and pushing on the glass was so unforeseeable that it defeated the negligence claim as a matter of law.

HOLDINGS

1. Summary judgment was improper because the evidence created a genuine issue of material fact regarding whether the storm door was defective and whether Twentieth Street Bank knew or should have known that it presented a risk of injury.
2. The circuit court's scant findings were inadequate under Fayette County National Bank v. Lilly and unsupported by the record, but the case did not need to be remanded merely for additional findings because the existing record itself showed a disputed material fact requiring trial.
3. The plaintiff was not required at the summary judgment stage to show that it was specifically foreseeable that a five-year-old child would become angry, run to the storm door, and push on the glass; evidence that the circumstances reasonably suggested a need to repair the door was sufficient to create a jury question on foreseeability.

KEY QUOTATIONS

> *"A motion for summary judgment should be granted only when it is clear that there is no genuine issue of fact to be tried and inquiry concerning the facts is not desirable to clarify the application of the law."* (210 W. Va. at 221)

> *"At the summary judgment stage Story was only required to present sufficient evidence to suggest that circumstances existed which showed it was reasonable for Twentieth Street to have been aware of the need to repair the storm door."* (210 W. Va. at 222)

FACTUAL BACKGROUND

Eleanor Worden owned a Huntington, West Virginia, house managed by Twentieth Street Bank, which was responsible under the rental agreement for maintaining the property. Thomas Wiles, a five-year-old child residing at the house, was injured when he pushed on a glass storm door and his hands went through the glass. The record contained evidence that the storm door's hinges were defective, that a protective guard had been removed, and that the Bank's representative found the house fairly dilapidated but did nothing to determine which conditions posed safety hazards before renting it.

PROCEDURAL HISTORY

Story sued Twentieth Street Bank for negligence after Thomas Wiles was injured when his hands went through a glass storm door at a house managed by the Bank. The circuit court initially granted summary judgment on the ground that the Bank owed no duty to Wiles as a licensee. After the Supreme Court remanded for reconsideration in light of Mallet v. Pickens, the circuit court again granted summary judgment. The Supreme Court reversed and remanded, holding that the evidence created a genuine dispute concerning the storm door's defective condition and whether the Bank knew or should have known of the hazard.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remanded to the Circuit Court of Cabell County for further proceedings consistent with the opinion; summary judgment may not be entered on the existing record because the disputed condition of the storm door and the Bank's knowledge present jury questions.

CASES CITED

- Aetna Casualty & Surety Co. v. Federal Insurance Co. of New York, 148 W. Va. 160, 133 S.E.2d 770 (1963)
- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Fayette County National Bank v. Lilly, 199 W. Va. 349, 484 S.E.2d 232 (1997)
- Mallet v. Pickens, 206 W. Va. 145, 522 S.E.2d 436 (1999)
- Durm v. Heck's, Inc., 184 W. Va. 562, 401 S.E.2d 908 (1991)
- Sewell v. Gregory, 179 W. Va. 585, 371 S.E.2d 82 (1988)
- Aikens v. Debow, 208 W. Va. 486, 541 S.E.2d 576 (2000)
