

SUPREME COURT OF LOUISIANA

Gifford v. Arrington

153 So. 3d 999 (La. 2014) · Decided November 26, 2014

SUMMARY

The Louisiana Supreme Court considered whether defendants were entitled to partial summary judgment on a wrongful death claim arising from a motor vehicle accident. The court held that plaintiffs failed to produce factual support showing they could prove the accident caused or contributed to Kenneth Gifford’s death, reversed the district court, and granted partial summary judgment for defendants.

CASE DETAILS

COURT	Supreme Court of Louisiana
JURISDICTION	Louisiana
DECIDED	November 26, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendants sought supervisory review of the denial of their motion for partial summary judgment concerning the plaintiffs' wrongful death claim.
STANDARD OF REVIEW	Summary judgment is reviewed under the statutory standard requiring the movant to identify an absence of factual support for an essential element of the adverse party's claim and the adverse party to produce sufficient factual support to show it can meet its trial burden.
PRECEDENTIAL VALUE	Published Louisiana Supreme Court opinion
PARTIES	Defendants v. Plaintiffs

TOPICS

- summary judgment
- wrongful death
- civil procedure
- appellate procedure

PRACTICE AREAS

- Civil procedure
- Torts
- Wrongful death

QUESTIONS PRESENTED

1. Whether defendants were entitled to partial summary judgment after presenting evidence that the decedent died from severe cardiovascular disease rather than injuries sustained in the motor vehicle accident.
2. Whether plaintiffs' speculation that the accident may have caused or contributed to a stroke constituted sufficient factual support to establish that they could prove causation at trial.

HOLDINGS

1. Defendants met their initial burden by presenting evidence indicating that Kenneth Gifford died from severe cardiovascular disease rather than from the motor vehicle accident.
2. Plaintiffs' speculation that the accident could have caused or contributed to the decedent's stroke was insufficient to establish that they would be able to prove at trial that the accident caused his death.

KEY QUOTATIONS

“speculation falls far short of the factual support required to establish that plaintiff will be able to satisfy his evidentiary burden of proof at trial” (1000)

“In the absence of any evidence by plaintiffs showing they could meet their burden at trial, summary judgment in favor of defendants is mandated.” (1000)

FACTUAL BACKGROUND

Kenneth Gifford was involved in a motor vehicle accident and died approximately two weeks later. Plaintiffs alleged that the accident caused or contributed to his death and asserted a wrongful death claim. Defendants presented the coroner's report attributing the death to heart disease and a cardiologist's opinion that the accident did not cause the death. Plaintiffs relied primarily on the possibility that a stroke, identified as one cause of death, could have resulted from head injuries.

PROCEDURAL HISTORY

Plaintiffs sued defendants after a motor vehicle accident and alleged that Kenneth Gifford died two weeks later as a result of injuries sustained in the accident. The district court denied defendants' motion for partial summary judgment, and the court of appeal denied supervisory review. The Louisiana Supreme Court granted the writ, reversed the district court, granted partial summary judgment for defendants, and remanded for further proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded to the district court for further proceedings after partial summary judgment was granted in favor of defendants.

CASES CITED

- Schultz v. Guoth, 10-0343 (La. 1/19/11), 57 So. 3d 1002
- Babin v. Winn-Dixie, 00-0078 (La. 6/30/00), 764 So. 2d 37
- Bufkin v. Felipe's Louisiana, LLC, 14-0288 (La. 10/15/14), reporter citation not available in source

OPINION

PER CURIAM.

PER CURIAM. Plaintiffs filed suit against defendants based on a motor vehicle accident. Among other claims, plaintiffs asserted a wrongful death claim, alleging their decedent, Kenneth Gifford, was injured in the accident and died two weeks later. Defendants *1000 moved for partial summary judgment, arguing Mr. Gifford did not die as a result of the accident.

In support, defendants relied on the coroner's report which indicated Mr. Gifford died as a result of heart disease. Also, defendants relied on a report and the affidavit of Dr. David Elizar-di, M.D., a board certified cardiologist, who opined that "there is no evidence to support the allegation that the automobile accident of Sept. 18, 2010 was the cause of Mr. Gifford's subsequent demise from complications of his advanced progressive, diffuse atherosclerotic cardiovascular disease." The district court denied defendants' motion for partial summary judgment, and the court of appeal denied supervisory review.

This application followed. A party moving for summary judgment has the burden of pointing out to the court that there is an absence of factual support for one or more elements essential to the adverse party's claim. Thereafter, if the adverse party fails to produce factual support sufficient to establish that he will be able to satisfy his evidentiary burden of proof at trial, there is no genuine issue of material fact.

La. Code Civ. P. art. 966(C)(2); Schultz v. Guoth, 10-0343 (La.1/19/11), 57 So.3d 1002. In the instant case, defendants produced evidence indicating Mr. Gifford did not die as a result of the accident, but instead died as a result of his severe cardiovascular disease.

The burden then shifted to plaintiffs to come forward with evidence (by affidavit, deposition, discovery response, or other form sanctioned by La. Code Civ. P. arts. 966 and 967) to demonstrate that they would be able to meet their burden at trial to show the accident caused Mr. Gifford's death. Plaintiffs argued the jury may find the accident caused or contributed to Mr. Gifford's death because one of the causes of his death was a cerebral vascular accident or stroke, and strokes can be caused by head injuries.

However, plaintiffs' argument is based largely on speculation, which is insufficient to satisfy their burden of proof at trial. See Babin v. Winn-Dixie, 00-0078 (La.6/30/00), 764 So.2d 37

(“speculation falls far short of the factual support required to establish that plaintiff will be able to satisfy his evidentiary burden of proof at trial”).

In the absence of any evidence by plaintiffs showing they could meet their burden at trial, summary judgment in favor of defendants is mandated. See *Bufkin v. Felipe’s Louisiana, LLC*, 14-0288 (La.10/15/14),-So.3d-. Accordingly, the writ is granted.

The judgment of the district court is reversed, and partial summary judgment is granted in favor of defendants. Case remanded to the district court for further proceedings. JOHNSON, C.J., dissents.