

SUPREME COURT OF APPEALS OF WEST VIRGINIA

Arnazzi v. Quad/Graphics, Inc., 218 W. Va. 36

621 S.E.2d 705 (2005) · No. No. 31860 · Decided June 17, 2005

SUMMARY

The Supreme Court of Appeals of West Virginia reviewed a summary judgment ruling in an employee's deliberate-intention workplace injury action under West Virginia Code § 23-4-2(d)(2)(ii). The court held that conflicting evidence regarding forklift safety training and the circumstances of the injury created a triable issue on proximate cause, reversed the judgment for the employer and supervisor, and remanded the case.

CASE DETAILS

COURT	Supreme Court of Appeals of West Virginia
WRITING FOR THE COURT	Per curiam; Chief Justice Albright; Justice Maynard; Justice Benjamin
JURISDICTION	West Virginia
DECIDED	June 17, 2005
DOCKET	No. 31860
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from an order granting defendants' motion for summary judgment in an employee's deliberate-intention action under West Virginia Code § 23-4-2(d)(2)(ii).
STANDARD OF REVIEW	Summary judgment is reviewed de novo. Summary judgment is proper only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law; the court may not weigh evidence or determine credibility at that stage.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Appeals of West Virginia
PARTIES	James W. Arnazzi v. Quad/Graphics, Inc., Robert Knighten

TOPICS

workers compensation

summary judgment

proximate cause

negligence

standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the evidence created a genuine issue of material fact that the lack of legally required forklift safety training was a direct and proximate cause of Arnazzi's serious injury under West Virginia Code § 23-4-2(d)(2)(ii)(E).
2. Whether summary judgment was proper where the plaintiff could not identify with certainty how the accident occurred or specifically explain how the omitted training would have prevented it.
3. Whether expert testimony was required as a matter of law to establish proximate causation based on the failure to provide required safety training.

HOLDINGS

1. The evidence was sufficient to create a genuine issue of material fact as to whether the absence of required forklift safety training was a direct and proximate cause of Arnazzi's injury. Proximate cause was therefore an issue for the trier of fact, and summary judgment was improper.
2. A plaintiff's inability to identify precisely how an accident occurred or how omitted safety training would have prevented it does not eliminate a genuine issue of material fact when other evidence and reasonable inferences support causation.
3. Expert testimony is not required as a matter of law in every case to prove that a lack of required safety training proximately caused or contributed to an accident or injury.

KEY QUOTATIONS

"The appellant's uncertain deposition statements about how the accident occurred may diminish his credibility or otherwise impair the force of his case before the finder of fact, but they do not erase or nullify the effect of the evidence from the appellees, nor the fair inferences from all of the circumstances of the accident itself." (218 W. Va. 39, 621 S.E.2d 708)

"We are not inclined to adopt a rule that expert testimony is necessary as a matter of law in all cases to prove that a lack of required safety training proximately caused or contributed to an accident or injury." (218 W. Va. 40 n.5, 621 S.E.2d 709 n.5)

FACTUAL BACKGROUND

Arnazzi was permitted to operate a forklift despite having no prior forklift experience, training, or certification, contrary to federal forklift-training requirements. He operated the forklift for approximately three weeks and was injured when his left foot became pinned between the forklift and a wall of pallets while he was driving through a narrow passageway. Evidence included an employer accident report and testimony that Arnazzi had operated the forklift with his foot outside the cab and had engaged in other unsafe practices.

PROCEDURAL HISTORY

The Circuit Court of Berkeley County granted summary judgment to Quad/Graphics and Robert Knighten, concluding that Arnazzi had not established a genuine issue of material fact on proximate cause. The Supreme Court of Appeals of West Virginia reversed and remanded, holding that the evidence permitted a trier of fact to determine that the lack of required forklift safety training proximately caused Arnazzi's injury.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The case was remanded for further proceedings consistent with the opinion, with proximate cause to be determined by the trier of fact.

CASES CITED

- Painter v. Peavy, 192 W. Va. 189, 451 S.E.2d 755 (1994)
- Stewart v. George, 216 W. Va. 288, 607 S.E.2d 394 (2004)
- Kizer v. Harper, 211 W. Va. 47, 561 S.E.2d 368 (2001)
- Prosser v. Ross, 70 F.3d 1005 (8th Cir. 1995)
- Kiser v. Caudill, 215 W. Va. 403, 599 S.E.2d 826 (2004)
- Williams v. Precision Coil, 194 W. Va. 52, 459 S.E.2d 329 (1995)
- Mayles v. Shoney's Inc., 185 W. Va. 88, 405 S.E.2d 15 (1990)
- Tolley v. ACF Industries, Inc., 212 W. Va. 548, 575 S.E.2d 158 (2002)
- Lewis v. State, 73 S.W.3d 88 (Tenn. App. 2001)
- Wald-Tinkle v. Pinok, No. 01-02-01100-CV, 2004 WL 2966293 (Tex. App. Dec. 23, 2004)