

SUPREME COURT OF RHODE ISLAND

Plourde v. Myers

823 A.2d 1138 (R.I. 2003) · No. No. 2002-12-Appeal · Decided June 3, 2003

SUMMARY

The Rhode Island Supreme Court affirmed a defense verdict in a personal-injury action arising from a rear-end collision in a private hospital parking lot. The court held that the plaintiffs were not entitled to judgment as a matter of law or a new trial, waived their challenge to the use of vehicle-damage photographs by failing to object on the asserted ground, and were not entitled to a jury instruction under the Rhode Island vehicle-safety statute because it applied to highways and specified public property. The court also held that the plaintiffs waived their appellate argument concerning voir dire about Allstate employment because they had requested voir dire concerning Allstate insurance instead.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Per Curiam; Williams, C.J.; Flanders, J.; Goldberg, J.
JURISDICTION	Rhode Island
DECIDED	June 3, 2003
DOCKET	No. 2002-12-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from a Superior Court judgment entered on a jury verdict for the defendant in a personal-injury action arising from a rear-end collision. They challenged the denial of motions for judgment as a matter of law and a new trial, the admission and use of photographs showing minimal vehicle damage, the refusal to conduct additional voir dire concerning Allstate, and the refusal to give a requested statutory jury instruction.
STANDARD OF REVIEW	A motion for judgment as a matter of law is reviewed in the same manner as by the trial justice, viewing the evidence in the light most favorable to the nonmoving party, without weighing evidence or evaluating witness credibility, and denying the motion when reasonable persons could draw different conclusions. A ruling on a motion for a new trial is reviewed for clear error or an overlooked or misconceived material issue. Jury instructions are reviewed in their entirety in light of the meaning an ordinary, intelligent jury would give

	them, and the charge need only adequately cover the applicable law. Issues not specifically objected to at trial are waived under Rhode Island's raise-or-waive rule.
PRECEDENTIAL VALUE	Published opinion; precedential Rhode Island Supreme Court decision.
PARTIES	Carolmarie Plourde, Michael Plourde v. Ray Myers, alias Jane Doe

TOPICS

personal injury

negligence

standard of review

jury instructions

preservation of error

PRACTICE AREAS

Personal injury

negligence

appellate procedure

evidence

jury instructions

QUESTIONS PRESENTED

1. Whether the trial justice properly denied the plaintiffs' motions for judgment as a matter of law and for a new trial.
2. Whether the plaintiffs preserved an objection to the use of photographs showing minimal automobile damage to challenge the severity or causation of the claimed injuries.
3. Whether Rhode Island General Laws § 31-23-1 required a jury instruction concerning the duty to maintain a vehicle in safe operating condition when the collision occurred in a private parking lot.
4. Whether the plaintiffs preserved a challenge based on the trial justice's refusal to conduct additional voir dire concerning Allstate.

HOLDINGS

1. The trial justice properly denied judgment as a matter of law because reasonable jurors could conclude from the evidence that Myers acted reasonably and was not negligent.
2. The trial justice properly denied the motion for a new trial because the evidence was evenly balanced and reasonable minds could differ, and the trial justice did not overlook or misconceive material evidence or act clearly wrong.
3. The plaintiffs waived their argument that expert testimony was required to use photographs of minimal vehicle damage to challenge the claimed injuries because they did not object on that ground at trial and did not object to the photographs' use in closing argument.
4. Section 31-23-1 did not apply because the collision occurred in a private parking lot rather than on a highway or state, city, or town-owned public property; therefore, the trial justice properly refused the requested instruction.
5. The plaintiffs waived the voir-dire issue because their actual request was to ask whether jurors were insured by Allstate, not whether Allstate employed any jurors, which was the issue asserted on appeal.

KEY QUOTATIONS

"Although a rear-end collision does create prima facie evidence of negligence, "it does not foreclose the issue of liability."" (1143)

"A jury retains the fact-finding power to determine whether a defendant acted as a reasonable person in the factual situation presented." (1143)

*"The Legislature made it clear in G.L. 1956 § 31-12-1 that chapters 12 through 27 of title 31 apply exclusively to the operation of vehicles upon highways and on all state, city or town owned public property * * *."* (1144)

FACTUAL BACKGROUND

While attempting to move through a crowded hospital parking-lot payment line, Ray Myers's vehicle lurched and struck the rear of the vehicle occupied by Carolmarie and Michael Plourde. Carolmarie claimed neck and shoulder injuries that became apparent nearly two days later, although she continued working and had been at the hospital before the collision after partially fainting and receiving Morphine and Compazine. Photographs showed minimal damage to the vehicle, and the jury found for Myers after accepting evidence that she believed her vehicle was malfunctioning and acted reasonably.

PROCEDURAL HISTORY

After a jury returned a verdict for Myers, the Superior Court trial justice denied the plaintiffs' renewed motion for judgment as a matter of law and alternative motion for a new trial. The plaintiffs timely appealed, and the Rhode Island Supreme Court affirmed the Superior Court judgment, concluding that the liability issues were properly submitted to the jury, the photograph-related argument was waived, the requested statutory instruction was inapplicable, and the voir-dire issue was waived.

DISPOSITION

affirmed

CASES CITED

- Filippi v. Filippi, 818 A.2d 608, 617 (R.I. 2003)
- Marketing Design Source, Inc. v. Pranda North America, Inc., 799 A.2d 267, 271-72 (R.I. 2002)
- Lord v. Major, 729 A.2d 697, 700 (R.I. 1999)
- Saber v. Dan Angelone Chevrolet, Inc., 811 A.2d 644, 652 (R.I. 2002)
- English v. Green, 787 A.2d 1146, 1149 (R.I. 2001)
- Kurczy v. St. Joseph Veterans Association, Inc., 713 A.2d 766, 770 (R.I. 1998)
- Rezendes v. Beaudette, 797 A.2d 474, 477-78 (R.I. 2002)
- Galusha v. Carlson, 120 R.I. 204, 208, 386 A.2d 634, 636 (1978)
- State v. Breen, 767 A.2d 50, 57 (R.I. 2001)
- Patino v. Suchnik, 770 A.2d 861, 866 (R.I. 2001)
- Neri v. Nationwide Mutual Fire Insurance Co., 719 A.2d 1150, 1153 (R.I. 1998)

- State v. Hurteau, 810 A.2d 222, 224-25 (R.I. 2002)
- State v. Krushnowski, 773 A.2d 243, 246 (R.I. 2001)

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