

SUPREME COURT OF RHODE ISLAND

Brian K. Crum v. Jordan W. Horowitz et al.

896 A.2d 736 (R.I. 2006) · No. No. 2004-209-Appeal · Decided May 1, 2006

SUMMARY

The Rhode Island Supreme Court affirmed a Superior Court judgment entered after a jury found that the defendants were not negligent in a vehicle-versus-pedestrian accident involving a police officer working at a construction site. The court rejected the plaintiff's challenges to the jury instructions and posttrial rulings, holding that any reliance on excluded expert testimony in denying a new trial was harmless.

CASE DETAILS

COURT	Supreme Court of Rhode Island
JURISDICTION	Rhode Island
DECIDED	May 1, 2006
DOCKET	No. 2004-209-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a Superior Court jury verdict finding defendants not liable for negligence and from the denial of his posttrial motions for judgment as a matter of law and a new trial.
STANDARD OF REVIEW	The Supreme Court reviewed the jury instructions and record for legal error, considering the instructions as a whole. It reviewed the denial of judgment as a matter of law under the same criteria applied by the trial justice. For a new-trial ruling, it first determined whether the trial justice applied the proper standard and then reviewed for overlooking or misconceiving the evidence or clear error.
PRECEDENTIAL VALUE	precedential
PARTIES	Brian K. Crum v. Jordan W. Horowitz, Linda L. Horowitz, Ford Motor Credit Company

TOPICS

negligence

appellate procedure

standard of review

harmless error

evidence

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial justice committed reversible error by failing to give requested reciprocal jury instructions concerning a pedestrian's duty to anticipate a driver's negligence and the significance of the absence of a traffic citation.
2. Whether the trial justice erred in denying Crum's renewed motion for judgment as a matter of law because the evidence established that Linda Horowitz was negligent as a matter of law.
3. Whether the trial justice erred in denying a new trial by relying on expert testimony that had been excluded from evidence.
4. Whether the challenged comparative-negligence jury instructions presented reversible error despite the jury's finding that defendants were not negligent.

HOLDINGS

1. The jury instructions, viewed as a whole, adequately covered the relevant law and did not prejudice Crum; therefore, the trial justice did not commit reversible error by declining the requested reciprocal instructions.
2. The trial justice properly denied Crum's renewed motion for judgment as a matter of law because legally sufficient countervailing evidence permitted reasonable jurors to conclude that Horowitz was not negligent.
3. Although the trial justice erroneously relied on an expert opinion excluded from evidence, the error was harmless and did not require a new trial because ample admissible evidence established the same point.

KEY QUOTATIONS

"In making this determination, we view the instructions "as a whole in light of the meaning and interpretation that a jury composed of ordinary, intelligent lay persons would give them." (896 A.2d at 737)

"If factual issues upon which reasonable persons might draw different conclusions are apparent to the trial justice after a review of the evidence in the light most favorable to the nonmoving party, the motion must be denied." (896 A.2d at 738)

"Although the trial justice erroneously relied on an opinion that had been excluded from evidence, we deem this harmless error." (896 A.2d at 739)

FACTUAL BACKGROUND

On November 25, 1997, Brian Crum, a Johnston police officer directing traffic at a road construction site, stood near a row of orange construction cones separating the work zone from traffic. As Linda Horowitz drove through the area at approximately ten to fifteen miles per hour, the passenger-side mirror of her vehicle struck Crum's left forearm while he was facing away from traffic. Horowitz did not displace any construction cones, and Crum did not issue her a traffic citation. Crum alleged that the collision caused severe personal injuries and sued for negligence.

PROCEDURAL HISTORY

After a nine-day jury trial, the jury found defendants not liable in negligence. The Superior Court denied Crum's renewed motion for judgment as a matter of law and motion for a new trial. Crum appealed, challenging the jury instructions, evidentiary rulings, and the weight of the evidence.

DISPOSITION

affirmed

CASES CITED

- Maglioli v. J.P. Noonan Transportation, Inc., 869 A.2d 71, 75 (R.I. 2005)
- Cruz v. Johnson, 823 A.2d 1157, 1160 (R.I. 2003)
- Lieberman v. Bliss-Doris Realty Associates, L.P., 819 A.2d 666, 672 (R.I. 2003)
- Hodges v. Brannon, 707 A.2d 1225, 1228 (R.I. 1998)
- Children's Friend & Service v. St. Paul Fire & Marine Insurance Co., 893 A.2d 222, 229 (R.I. 2006)
- Saber v. Dan Angelone Chevrolet, Inc., 811 A.2d 644, 653 (R.I. 2002)
- Brodeur v. Desrosiers, 505 A.2d 418, 422 (R.I. 1986)
- Bajakian v. Erinakes, 880 A.2d 843, 849 (R.I. 2005)
- Kurczy v. St. Joseph Veterans Association, Inc., 713 A.2d 766, 770 (R.I. 1998)
- Franco v. Latina, 840 A.2d 1110, 1112 (R.I. 2004)
- Perkins v. City of Providence, 782 A.2d 655, 656 (R.I. 2001)
- English v. Green, 787 A.2d 1146, 1149 (R.I. 2001)