

APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, FIFTH DIVISION

Bonder v. Commonwealth Edison Co., 168 Ill. App. 3d 80

522 N.E.2d 227 (Ill. App. Ct. 1988) · No. No. 86-2557 · Decided March 11, 1988

SUMMARY

The Illinois Appellate Court affirmed summary judgment for Commonwealth Edison Company and the property owners in a negligence action arising from a teenager's contact with an overhead power line. The court held that children aged 14 and 15 are, as a matter of law, capable of appreciating the danger posed by electrical power lines, so defendants owed no duty to warn or otherwise remedy the condition under Illinois's child-danger doctrine.

CASE DETAILS

COURT	Appellate Court of Illinois, First District, Fifth Division
WRITING FOR THE COURT	Justice Lorenz; Justice Pincham; Justice Murray
JURISDICTION	Illinois
DECIDED	March 11, 1988
DOCKET	No. 86-2557
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from summary judgment for the defendants on the plaintiff's negligence counts. A separate absolute-liability count against Commonwealth Edison was dismissed, and no appeal was taken from that order.
STANDARD OF REVIEW	Summary judgment is reviewed under the applicable legal standard, and whether a duty exists is a question of law for the court.
PRECEDENTIAL VALUE	Published Illinois appellate decision
PARTIES	Christopher Bonder, a minor, by his mother and next friend, Carolyn Bonder Sotos v. Commonwealth Edison Company, Richard Delhey, Jean Delhey

TOPICS

- premises liability
- duty of care
- negligence
- summary judgment
- standard of review

PRACTICE AREAS

torts

premises liability

negligence

civil procedure

QUESTIONS PRESENTED

1. Whether defendants owed a special duty to warn or protect a fourteen-year-old plaintiff from the danger posed by overhead power lines under Illinois's child-danger doctrine.
2. Whether summary judgment was proper on the plaintiff's negligence counts where the power lines presented an open and obvious danger that boys of the plaintiff's age and experience were legally presumed capable of appreciating.

HOLDINGS

1. Defendants owed no special duty to warn the fourteen-year-old plaintiff or otherwise remedy the danger because boys of his age and experience are, as a matter of law, deemed capable of appreciating the danger of contacting power lines.

KEY QUOTATIONS

"because boys of plaintiff's age and experience are as a matter of law deemed to be capable of understanding the dangers involved in contacting power lines, the defendants had no duty to warn the plaintiff or otherwise remedy the dangerous condition." (83)

FACTUAL BACKGROUND

Fourteen-year-old Christopher Bonder climbed a tree on the Delheys' property with Dan Delhey to hide marijuana plants. Bonder placed a planter on a utility pole, then saw Dan touching a suspended power line and grabbed Dan's leg to pull him away, sustaining injuries. Both boys knew the lines existed, although Bonder claimed he did not know they carried electricity; Dan's father had warned Dan that they were dangerous electrical lines.

PROCEDURAL HISTORY

Christopher Bonder sued Commonwealth Edison Company and Richard and Jean Delhey for injuries sustained when he pulled a companion away from a power line while climbing a tree on the Delheys' property. The Circuit Court of Cook County granted defendants' motions for summary judgment on the negligence counts, concluding that defendants owed no special duty to protect Bonder from the power lines. The Illinois Appellate Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Kahn v. James Burton Co., 5 Ill. 2d 614, 126 N.E.2d 836 (1955)
- Barnes v. Washington, 56 Ill. 2d 22, 305 N.E.2d 535 (1973)

- Newby v. Lake Zurich Community Unit, District 95, 136 Ill. App. 3d 92, 482 N.E.2d 1061 (1985)
- Genaust v. Illinois Power Co., 62 Ill. 2d 456, 343 N.E.2d 465 (1976)
- In re Estate of Dickens, 161 Ill. App. 3d 565, 515 N.E.2d 208 (1987)

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