

SUPREME COURT OF RHODE ISLAND

Bryan D. Konar v. PFL Life Insurance Company

840 A.2d 1115 (R.I. 2004) · No. No. 2002-291-Appeal · Decided January 9, 2004

SUMMARY

The Supreme Court of Rhode Island affirmed summary judgment for PFL Life Insurance Company in a negligence action arising from an assault at a shopping mall. The majority held that the independent-contractor rule barred imputing the security contractor's alleged negligence to PFL and declined to adopt Restatement (Second) of Torts § 425 because the complaint was treated as asserting general negligence rather than premises liability. Two justices dissented, concluding that the complaint adequately alleged premises liability and that a commercial landowner's duty to provide reasonably safe premises could not be delegated to an independent contractor.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Per curiam; Williams, C.J.; Flanders, J.; Goldberg, J.; Flaherty, J.; Suttell, J.
JURISDICTION	Rhode Island
DECIDED	January 9, 2004
DOCKET	No. 2002-291-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the Superior Court's grant of summary judgment to PFL Life Insurance Company in a negligence action arising from an assault at a shopping mall.
STANDARD OF REVIEW	Summary judgment is reviewed de novo under the same standards applied by the trial court. Summary judgment is proper when, viewing the evidence in the light most favorable to the nonmoving party, no material factual dispute exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; majority opinion is precedential, while the Flanders-Flaherty opinion is dissenting.
PARTIES	Bryan D. Konar v. PFL Life Insurance Company

TOPICS

premises liability

negligence

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PRACTICE AREAS

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Premises Liability

QUESTIONS PRESENTED

1. Whether the Superior Court properly granted summary judgment on Konar's general negligence claim under the independent-contractor rule.
2. Whether Konar's complaint adequately asserted a premises-liability claim that would impose a nondelegable duty on PFL to maintain reasonably safe premises and provide reasonable security.
3. Whether the Rhode Island Supreme Court should adopt Restatement (Second) of Torts § 425 concerning an owner's liability for an independent contractor's negligent failure to maintain land open to the public in a reasonably safe condition.

HOLDINGS

1. Summary judgment for PFL was proper because RIBI was an independent contractor, and under the general independent-contractor rule PFL was not liable for RIBI's alleged negligent security services absent an applicable exception.
2. The complaint did not assert a premises-liability claim because it alleged only a general claim of negligent failure to provide security and did not allege the landowner's duty to maintain the premises in a reasonably safe condition or otherwise provide fair notice of a premises-liability theory.
3. The court declined to adopt Restatement (Second) of Torts § 425 because the section applies to premises-liability claims, and adopting it would not affect the outcome of the plaintiff's general negligence claim.

KEY QUOTATIONS

“Summary judgment is appropriate if, viewing the evidence in the light most favorable to the nonmoving party, no material questions of fact exist and the moving party is entitled to judgment as a matter of law.” (1117)

“Pursuant to the independent contractor rule, a party who employs an independent contractor generally will not be liable for the negligence of that contractor.” (1117)

“Based on plaintiff's theory of the case, the only issue is whether defendant can be responsible for RIBI's allegedly negligent security lapse; not whether RIBI's alleged security lapse constitutes a breach of defendant's duty to provide reasonably safe premises.” (1121)

FACTUAL BACKGROUND

In June 1995, Bryan D. Konar was attacked and injured by Dennis DePalma while leaving the Newport Mall, which was owned by PFL Life Insurance Company. PFL retained National Development Asset Management as on-site manager, and National Development retained RIBI to provide security services. Konar alleged that PFL

negligently failed to provide adequate security, but the opinion states that RIBI was responsible for patrolling the mall when the attack occurred.

PROCEDURAL HISTORY

Konar sued PFL for negligent failure to provide security after being attacked while leaving the Newport Mall, which PFL owned. PFL brought a third-party complaint against National Development Asset Management; National Development asserted a fourth-party claim against Dennis DePalma and RIBI; RIBI asserted a cross-claim against DePalma. The Superior Court granted PFL summary judgment on the ground that RIBI, an independent contractor responsible for mall security, could not impute its alleged negligence to PFL. The Rhode Island Supreme Court affirmed after expedited oral argument under a show-cause order.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers of the case were remanded to the Superior Court.

CASES CITED

- Sobanski v. Donahue, 792 A.2d 57, 59 (R.I. 2002)
- Accent Store Design, Inc. v. Marathon House, Inc., 674 A.2d 1223, 1225 (R.I. 1996)
- Bourg v. Bristol Boat Co., 705 A.2d 969, 971 (R.I. 1998)
- Woodland Manor III Associates v. Keeney, 713 A.2d 806, 810 (R.I. 1998)
- Rotelli v. Catanzaro, 686 A.2d 91, 93 (R.I. 1996)
- Bromaghim v. Furney, 808 A.2d 615, 617 (R.I. 2002) (per curiam)
- East Coast Collision & Restoration, Inc. v. Allyn, 742 A.2d 273, 275-76 (R.I. 1999) (per curiam)
- Webbier v. Thoroughbred Racing Protective Bureau, Inc., 105 R.I. 605, 611-12, 254 A.2d 285, 289 (1969)
- Ballet Fabrics, Inc. v. Four Dee Realty Co., 112 R.I. 612, 621-22, 314 A.2d 1, 6-7 (1974)
- Kurczy v. St. Joseph Veterans Association, Inc., 820 A.2d 929, 935 (R.I. 2003)
- Tancrelle v. Friendly Ice Cream Corp., 756 A.2d 744, 752 (R.I. 2000)
- Hendrick v. Hendrick, 755 A.2d 784, 790-91 (R.I. 2000)
- Bresnick v. Baskin, 650 A.2d 915, 916 (R.I. 1994)
- Haley v. Town of Lincoln, 611 A.2d 845, 848 (R.I. 1992)
- Butera v. Boucher, 798 A.2d 340, 352-53 (R.I. 2002)
- Vanvooren v. John E. Fogarty Memorial Hospital, 113 R.I. 331, 335, 321 A.2d 100, 102 (1974)
- Breaux v. State, 326 So. 2d 481, 483-84 (La. 1976)
- Allstate Insurance Co. v. Lombardi, 773 A.2d 864, 870-71 (R.I. 2001)
- Volpe v. Gallagher, 821 A.2d 699, 709, 715, 718 (R.I. 2003)
- Moseley v. Fitzgerald, 773 A.2d 254, 258 (R.I. 2001) (per curiam)

- Dawson v. Rhode Island Auditorium, Inc., 104 R.I. 116, 124-25, 242 A.2d 407, 413 (1968)
- Gormley v. Vartian, 121 R.I. 770, 780, 403 A.2d 256, 261 (1979)

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