

SUPREME COURT OF OHIO

Combs v. Ohio Department of Natural Resources, Division of Parks and Recreation

Combs v. Ohio Dept. of Natural Resources, Div. of Parks & Recreation, 146 Ohio St. 3d 271, 2016-Ohio-1565 (2016) · No. 2014-1891 · Decided April 19, 2016

SUMMARY

The Supreme Court of Ohio held that Ohio's recreational-user statute, R.C. 1533.181, does not bar a negligence claim arising from the alleged negligent operation of an ODNR boom mower. The court distinguished injuries caused by a defect in recreational premises from injuries caused by active negligence in operating equipment and affirmed the Tenth District Court of Appeals. Justice Kennedy, joined by Justices Lanzinger and French, dissented.

CASE DETAILS

COURT	Supreme Court of Ohio
WRITING FOR THE COURT	O'Donnell, J.; Pfeifer, J.; O'Connor, C.J.; O'Neill, J.; Kennedy, J.; Lanzinger, J.; French, J.
JURISDICTION	Ohio
DECIDED	April 19, 2016
DOCKET	2014-1891
DISPOSITION	affirmed
PROCEDURAL POSTURE	ODNR appealed to the Supreme Court of Ohio from the Tenth District Court of Appeals' reversal of summary judgment entered for ODNR by the Ohio Court of Claims.
STANDARD OF REVIEW	De novo review of summary judgment and statutory interpretation
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Ohio
PARTIES	Ohio Department of Natural Resources, Division of Parks and Recreation v. Richard Combs

TOPICS

premises liability duty of care negligence statutory interpretation standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Ohio's recreational-user statute, R.C. 1533.181, immunizes a landowner from liability for injuries allegedly caused by the negligent operation of a boom mower by the landowner's employee.
2. Whether the recreational-user statute applies only to injuries caused by the condition or defect of the recreational premises, rather than to active negligence unrelated to the condition of the premises.

HOLDINGS

1. Ohio's recreational-user statute does not immunize a landowner from liability for an injury allegedly caused by the negligent operation of a boom mower by a maintenance employee.
2. Recreational-user immunity is limited to injuries arising from the condition of the recreational premises or from acts of another recreational user; it does not extend to negligently inflicted injuries arising from active operations by the landowner or its employees.

KEY QUOTATIONS

“Accordingly, the recreational user statute does not limit a landowner’s liability for a negligently inflicted injury that does not arise from the condition of the premises.” (§ 18)

“R.C. 1533.181 is limited in scope and does not apply to the alleged negligence of a maintenance worker operating a boom mower.” (§ 21)

“the recreational user statute does not preclude liability for such a claim if Combs can establish that negligence.” (§ 22)

FACTUAL BACKGROUND

Richard Combs was fishing at Indian Lake State Park, which was open to the public without an admission charge. As he crossed a causeway, an ODNR employee operated a boom mower along the lakeshore. A mower blade struck riprap and propelled a rock into Combs's eye and face, causing serious injuries. Combs alleged that the injury resulted from negligent operation of the mower rather than from a defect in the park premises.

PROCEDURAL HISTORY

Combs sued ODNR in the Ohio Court of Claims for injuries allegedly caused by an ODNR employee's negligent operation of a boom mower. The Court of Claims granted ODNR summary judgment on the ground that Ohio's recreational-user statute barred the negligence claim. The Tenth District reversed, holding that the statute applied to injuries caused by defects in the premises but not to alleged negligent operation of equipment. The Supreme Court of Ohio affirmed.

DISPOSITION

affirmed

CASES CITED

- Englehardt v. Philipps, 136 Ohio St. 73, 23 N.E.2d 829 (1939)
- Cincinnati Baseball Club Co. v. Eno, 112 Ohio St. 175, 147 N.E. 86 (1925)
- Soles v. Ohio Edison Co., 144 Ohio St. 373, 59 N.E.2d 138 (1945)
- Scheibel v. Lipton, 156 Ohio St. 308, 102 N.E.2d 453 (1951)
- Union News Co. v. Freeborn, 111 Ohio St. 105, 144 N.E. 595 (1924)
- Loyer v. Buchholz, 38 Ohio St. 3d 65, 526 N.E.2d 300 (1988)
- McCord v. Ohio Div. of Parks & Recreation, 54 Ohio St. 2d 72, 375 N.E.2d 50 (1978)
- Fryberger v. Lake Cable Recreation Assn., Inc., 40 Ohio St. 3d 349, 533 N.E.2d 738 (1988)
- Pauley v. Circleville, 137 Ohio St. 3d 212, 2013-Ohio-4541, 998 N.E.2d 1083
- Ryll v. Columbus Fireworks Display Co., Inc., 95 Ohio St. 3d 467, 2002-Ohio-2584, 769 N.E.2d 372
- Vaccariello v. Smith & Nephew Richards, Inc., 94 Ohio St. 3d 380, 763 N.E.2d 160 (2002)
- Carrel v. Allied Prods. Corp., 78 Ohio St. 3d 284, 677 N.E.2d 795 (1997)
- Klein v. United States, 50 Cal. 4th 68, 235 P.3d 42 (2010)
- Dickinson v. Clark, 2001 ME 49, 767 A.2d 303
- Young v. Salt Lake City Corp., 876 P.2d 376 (Utah 1994)
- Scott v. Wright, 486 N.W.2d 40 (Iowa 1992)
- LiCause v. Canton, 42 Ohio St. 3d 109, 537 N.E.2d 1298 (1989)
- Miller v. Dayton, 42 Ohio St. 3d 113, 537 N.E.2d 1294 (1989)
- Sorrell v. Ohio Dept. of Natural Resources, Div. of Parks & Recreation, 40 Ohio St. 3d 141, 532 N.E.2d 722 (1988)
- Johnson v. New London, 36 Ohio St. 3d 60, 521 N.E.2d 793 (1988)
- Mitchell v. Cleveland Elec. Illum. Co., 30 Ohio St. 3d 92, 507 N.E.2d 352 (1987)
- Marrek v. Cleveland Metroparks Bd. of Commrs., 9 Ohio St. 3d 194, 459 N.E.2d 873 (1984)
- Moss v. Dept. of Natural Resources, 62 Ohio St. 2d 138, 404 N.E.2d 742 (1980)
- Salemi v. Duffy Const. Corp., 3 Ohio St. 2d 169, 209 N.E.2d 566 (1965)
- Akron v. Rowland, 67 Ohio St. 3d 374, 618 N.E.2d 138 (1993)