

**DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA, FOURTH
DISTRICT**

**Jacob Bryan v. Galley Maid Marine Products, Inc., d/b/a Off Road
Innovations, a/k/a ORI**

No. 4D18-3699 (Fla. 4th DCA Jan. 15, 2020) · No. No. 4D18-3699 · Decided January 15, 2020

SUMMARY

The Florida Fourth District Court of Appeal reversed a final summary judgment in favor of Galley Maid Marine Products in a negligence action arising from two attacks on Jacob Bryan at the company's premises. The court held that genuine issues of material fact remained regarding the foreseeability of the second attack, Galley Maid's duty to render or summon aid, breach, and proximate causation. The case was remanded for further proceedings.

CASE DETAILS

COURT	District Court of Appeal of the State of Florida, Fourth District
WRITING FOR THE COURT	Forst, J.; Ciklin, J.; Gerber, J.
JURISDICTION	Florida
DECIDED	January 15, 2020
DOCKET	No. 4D18-3699
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final summary judgment entered for the defendant in a negligence and premises-liability action.
STANDARD OF REVIEW	De novo review applies to a grant of summary judgment, the existence of a legal duty, and foreseeability as it relates to duty. Summary judgment is proper only when there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law, with all inferences drawn in favor of the nonmoving party.
PRECEDENTIAL VALUE	Published opinion of the Florida Fourth District Court of Appeal
PARTIES	Jacob Bryan v. Galley Maid Marine Products, Inc., d/b/a Off Road Innovations, a/k/a ORI

TOPICS

premises liability

negligence

duty of care

summary judgment

proximate cause

PRACTICE AREAS

negligence

premises liability

personal injury

civil procedure

QUESTIONS PRESENTED

1. Whether Bryan was an invitee on Galley Maid's premises and whether Galley Maid owed him a duty of reasonable care.
2. Whether genuine issues of material fact existed concerning the reasonable foreseeability of Long's second attack.
3. Whether genuine issues of material fact existed concerning Galley Maid's duty to render or call for aid after Bryan's attacks.
4. Whether summary judgment was proper on proximate causation when the evidence permitted factual disputes concerning the consequences of failing to provide aid.

HOLDINGS

1. Because Bryan was expressly invited onto Galley Maid's premises by the premises' owner, he was an invitee, and Galley Maid owed him the applicable duty of reasonable care under the circumstances.
2. Although the first attack was not reasonably foreseeable, genuine issues of material fact existed as to whether Long's second attack was reasonably foreseeable; therefore, summary judgment was improper on that issue.
3. Genuine issues of material fact existed as to whether Tumoszcz and Galley Maid had a duty to render or call for aid after Bryan's attacks and whether that duty was breached.
4. Summary judgment was improper on proximate causation because breach, proximate causation, and damages were ordinarily factual questions and Bryan made a sufficient showing to create genuine issues of material fact.

KEY QUOTATIONS

"We conclude that genuine issues of material fact remain in this case regarding the reasonable foreseeability of Long's second attack on Bryan, and whether Galley Maid's owner had a duty to render or call for aid after the attacks." (at 4)

"This court has agreed with the principle "that a proprietor is under an ordinary duty of care to render aid to an invitee after he knows or has reason to know the invitee is ill or injured."" (at 7)

"In short, genuine issues of material fact remain concerning Galley Maid's duties to Bryan and its possible breach of those duties." (at 8)

FACTUAL BACKGROUND

After leaving a bar, Bryan and several acquaintances went to Galley Maid's shop, where they continued drinking and some used cocaine. James Long suddenly attacked Bryan inside the shop, rendering him unconscious for approximately seventeen minutes; no one provided first aid or called for medical assistance. After Bryan regained consciousness, Long continued to taunt and threaten him and then attacked him again outside, again rendering him unconscious. Galley Maid's alleged owner or agent, Tumoszcz, knew Bryan had been attacked and injured but did not render aid or summon help.

PROCEDURAL HISTORY

Bryan sued Galley Maid, alleging that the company, through its owner or agent Ernest Tumoszcz, negligently failed to protect him from a second assault and failed to render or secure medical assistance after two attacks. Galley Maid moved for summary judgment, arguing lack of duty, unforeseeability, and lack of proximate causation. The circuit court granted summary judgment and entered final judgment for Galley Maid. The Fourth District reversed and remanded because genuine issues of material fact remained concerning foreseeability, duty, breach, and proximate causation.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion.

CASES CITED

- Volusia County v. Aberdeen at Ormond Beach, L.P., 760 So. 2d 126, 130 (Fla. 2000)
- R.J. Reynolds Tobacco Co. v. Grossman, 96 So. 3d 917, 920 (Fla. 4th DCA 2012)
- Demelus v. King Motor Co. of Fort Lauderdale, 24 So. 3d 759, 761 (Fla. 4th DCA 2009)
- Cohen v. Arvin, 878 So. 2d 403, 405 (Fla. 4th DCA 2004)
- Moore v. Morris, 475 So. 2d 666, 668 (Fla. 1985)
- Miller By & Through Miller v. Foster, 686 So. 2d 783, 783 (Fla. 4th DCA 1997)
- Nicholson v. Stonybrook Apartments, LLC, 154 So. 3d 490, 492 (Fla. 4th DCA 2015)
- Charterhouse Assocs., Ltd., Inc. v. Valencia Reserve Homeowners Ass'n, Inc., 262 So. 3d 761, 765 (Fla. 4th DCA 2018)
- Wood v. Camp, 284 So. 2d 691, 695 (Fla. 1973)
- Relyea v. State, 385 So. 2d 1378, 1382-83 (Fla. 4th DCA 1980)
- Avallone v. Board of County Commissioners of Citrus County, 493 So. 2d 1002 (Fla. 1986)
- Bruce By & Through Wallace v. Village of Miami Shores, 496 So. 2d 984 (Fla. 3d DCA 1986)
- Las Olas Holding Co. v. Demella, 228 So. 3d 97, 103 (Fla. 4th DCA 2017)
- Leitch v. City of Delray Beach, 41 So. 3d 411, 412 (Fla. 4th DCA 2010)
- Estate of Starling v. Fisherman's Pier, Inc., 401 So. 2d 1136, 1137-38 (Fla. 4th DCA 1981)

- L.A. Fitness Int'l, LLC v. Mayer, 980 So. 2d 550, 557 (Fla. 4th DCA 2008)
- Florida Department of Corrections v. Abril, 969 So. 2d 201, 205 (Fla. 2007)
- McCain v. Florida Power Corp., 593 So. 2d 500, 503-04 (Fla. 1992)
- Limones v. School District of Lee County, 161 So. 3d 384, 389 (Fla. 2015)

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