

SUPREME COURT OF DELAWARE

Rhudy v. Bottlecaps Inc.

830 A.2d 402 (Del. 2003) · No. Nos. 17, 2003 and 18, 2003 · Decided August 25, 2003

SUMMARY

The Delaware Supreme Court held that a bar owner did not owe patrons a duty to warn or protect them from criminal acts occurring in a publicly owned parking lot that the bar did not own or control. The court affirmed summary judgment for the bar and concluded that the trial court did not abuse its discretion by denying the plaintiffs' request for additional discovery.

CASE DETAILS

COURT	Supreme Court of Delaware
WRITING FOR THE COURT	Veasey, Chief Justice; Holland, Justice; Berger, Justice; Steele, Justice; Jacobs, Justice
JURISDICTION	Delaware
DECIDED	August 25, 2003
DOCKET	Nos. 17, 2003 and 18, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the Superior Court's grant of summary judgment dismissing their wrongful-death and related claims against Bottlecaps, and challenged the denial of their request for additional discovery.
STANDARD OF REVIEW	Summary judgment is reviewed de novo as to both facts and law, viewing undisputed facts in the light most favorable to the nonmoving party. The denial of additional discovery is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published, precedential decision of the Supreme Court of Delaware, decided en banc.
PARTIES	Gary L. Rhudy, as Personal Representative of the Estate of Denise L. Rhudy, Deceased, and as Guardian and Next Friend of Gary E. Rhudy, Eva Rhudy, Morgan Rhudy, and Madison Rhudy, Minors, Stephanie Kureck v. Bottlecaps Inc., a Delaware Corporation d/b/a Bottlecaps Bar & Restaurant

TOPICS

premises liability

duty of care

summary judgment

discovery dispute

appellate procedure

PRACTICE AREAS

premises liability

negligence

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QUESTIONS PRESENTED

1. Whether Bottlecaps owed its patrons a duty to warn or protect them from criminal acts occurring in a public parking lot that Bottlecaps did not own or control.
2. Whether the plaintiffs produced sufficient evidence to create a genuine issue of material fact concerning Bottlecaps' control of or responsibility for the parking lot.
3. Whether the Superior Court abused its discretion by denying the plaintiffs' request for additional discovery before ruling on summary judgment.

HOLDINGS

1. Bottlecaps did not owe the plaintiffs a duty to warn or protect them from the robbery and murder because the criminal acts occurred on property owned and controlled by another, Bottlecaps did not control the lot, and Bottlecaps' business activities neither created nor increased the risk of crime there.
2. Summary judgment for Bottlecaps was proper because the record contained no genuine issue of material fact from which a reasonable juror could infer that Bottlecaps owed the plaintiffs a duty.
3. The Superior Court did not abuse its discretion by denying the plaintiffs' vague request for additional discovery before granting summary judgment.

KEY QUOTATIONS

“In this appeal, we hold that a bar owner did not owe a duty either to warn or protect its patrons from criminal acts that occurred on another landowner's property.” (830 A.2d at 403)

“We affirm that decision, however, only after conducting a contextual inquiry, considering all of the relevant factors raised by the parties and not solely the degree of control Bottlecaps exercised over the Lot.” (830 A.2d at 405)

“This Court cannot impose on Bottlecaps a duty to protect the plaintiffs from an assailant while they were on another's property on which neither Bottlecaps' actions nor its inactions were responsible for the robbery and murder.” (830 A.2d at 408)

FACTUAL BACKGROUND

Stephanie Kureck and Denise Rhudy parked in a public parking lot owned and controlled by the Wilmington Parking Authority behind Bottlecaps after hearing a radio advertisement referring to free parking directly behind the bar. An assailant robbed the women at gunpoint, shot Rhudy twice, killing her, and attempted to shoot Kureck. Bottlecaps did not own or possess the lot and had no agreement with the Parking Authority, although it advertised the lot, benefited from its availability, occasionally required employees to remove litter, and was aware of prior criminal activity there.

PROCEDURAL HISTORY

After a robbery and murder occurred in a public parking lot near Bottlecaps, Rhudy's estate and Kureck sued Bottlecaps in the Superior Court, alleging that the bar owed a duty to warn or protect patrons from crime in the lot. Following discovery, including depositions, affidavits, and document production, the Superior Court granted Bottlecaps summary judgment and denied the plaintiffs' request for additional discovery. The Supreme Court of Delaware affirmed.

DISPOSITION

affirmed

CASES CITED

- Arnold v. Society for Savings Bancorp, Inc., 678 A.2d 533, 535 (Del. 1996)
- Robelen Piano Co. v. DiFonzo, 169 A.2d 240, 245 (Del. 1961)
- Jardel Co. v. Hughes, 523 A.2d 518, 524-25 (Del. 1987)
- Wilmington Country Club v. Cowee, 747 A.2d 1087, 1092-93 (Del. 2000)
- Thompson v. Winn-Dixie Louisiana, Inc., 812 So. 2d 829, 832 (La. Ct. App. 2002)
- Craig v. A.A.R. Realty Corp., 576 A.2d 688, 696 (Del. Super. Ct. 1989), aff'd, 571 A.2d 786 (Del. 1989)
- Mostert v. CBL & Associates, 741 P.2d 1090, 1096 (Wyo. 1987)
- Zepf v. Hilton Hotel & Casino, 346 N.J. Super. 6, 786 A.2d 154, 159 (App. Div. 2001)
- Mulraney v. Auletto's Catering, 293 N.J. Super. 315, 680 A.2d 793 (App. Div. 1996)
- Ember v. B.F.D., Inc., 490 N.E.2d 764, 772 (Ind. Ct. App. 1986)
- Southland Corp. v. Superior Court, 203 Cal. App. 3d 656, 667, 250 Cal. Rptr. 57 (1988)
- Rodriguez v. Detroit Sportsmen's Congress, 159 Mich. App. 265, 406 N.W.2d 207, 210 (1987)
- Levy v. Stern, 1996 WL 742818, at *3 (Del. Dec. 20, 1996) (Order)
- Malpiede v. Townson, 780 A.2d 1075, 1091 (Del. 2001)
- Mann v. Oppenheimer & Co., 517 A.2d 1056, 1060 (Del. 1986)

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