

SUPREME COURT OF ALABAMA

Abney v. Crosman Corp.

919 So. 2d 289 (Ala. 2005) · No. 1031571 · Decided May 20, 2005

SUMMARY

The Supreme Court of Alabama affirmed summary judgments for Crosman Corporation and Owens True Value Hardware in a wrongful-death action arising from the fatal shooting of a child with a pneumatic air rifle. The court held that the rifle's lethal danger was open and obvious to both the purchaser and the intended user, eliminating any duty to warn under negligence principles and providing a complete affirmative defense under the Alabama Extended Manufacturer's Liability Doctrine.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Harwood, Justice; Nabers, Chief Justice; See, Justice; Stuart, Justice; Bolin, Justice
JURISDICTION	Alabama
DECIDED	May 20, 2005
DOCKET	1031571
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a summary judgment entered for the defendants on claims arising from the death of a child shot by a projectile fired from a Crosman air rifle.
STANDARD OF REVIEW	The Supreme Court applied the same standard as the trial court in reviewing summary judgment: whether the evidence showed a genuine issue of material fact and whether the movant was entitled to judgment as a matter of law. The record was viewed in the light most favorable to the nonmovant, with reasonable doubts resolved against the movant; once the movant made a prima facie showing, the nonmovant had to present substantial evidence creating a genuine issue.
PRECEDENTIAL VALUE	Published, precedential opinion of the Supreme Court of Alabama.
PARTIES	Ola May Abney, administratrix of the estate of Sacorya Johnson, deceased v. Crosman Corporation, Owens True Value Hardware, Inc.

TOPICS

products liability

negligence

summary judgment

standard of review

appellate procedure

PRACTICE AREAS

products liability

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appellate procedure

QUESTIONS PRESENTED

1. Whether Crosman and Owens had a duty to warn the purchaser or user that the air rifle could kill a person.
2. Whether the defendants were entitled to summary judgment on Abney's negligent and wanton failure-to-warn claims.
3. Whether the defendants had a complete affirmative defense under the Alabama Extended Manufacturer's Liability Doctrine because the danger was open and obvious.

HOLDINGS

1. Neither Crosman nor Owens had a duty to warn because the danger that the air rifle could inflict a lethal injury was open and obvious to both Plezarius, the intended user, and Rabb, the purchaser.
2. Summary judgment for Crosman and Owens was proper because Abney failed to present substantial evidence creating a genuine issue of material fact concerning the defendants' duty to warn.
3. Because the danger was open and obvious, the defendants had a complete affirmative defense to Abney's AEMLD claim.

KEY QUOTATIONS

"When the movant makes a prima facie showing that there is no genuine issue of material fact, the burden shifts to the nonmovant to present substantial evidence creating such an issue." (919 So. 2d at 293)

"Because both Plezarius, the user of the gun, and Rabb, the consumer who purchased the gun, were aware that the gun could kill a person, we conclude that the dangers presented by the gun were open and obvious to them, and, therefore, that the defendants had no duty to warn Plezarius or Rabb of that of which they already knew." (919 So. 2d at 296)

FACTUAL BACKGROUND

Five-year-old Sacorya Johnson died after seven-year-old Plezarius fired a BB from a Crosman 760 Pumpmaster air rifle into her eye at close range. Plezarius had obtained the rifle from the locked trunk of his mother's automobile and had previously received instruction and several opportunities to use it. The rifle was sold by Owens as a display model without its original retail packaging, although the manufacturer ordinarily supplied warnings stating that the gun was not a toy and could cause serious injury or death. Evidence showed that both Plezarius and his mother, Pamela Rabb, knew that the rifle could kill a person.

PROCEDURAL HISTORY

Abney filed suit in the Monroe Circuit Court asserting claims under the Alabama Extended Manufacturer's Liability Doctrine, negligence, wanton failure to warn, breach of warranty, and negligent or wanton supervision. The circuit court entered summary judgment for Crosman and Owens after concluding that the danger posed by the air rifle was open and obvious and that there was no proximate cause from any alleged failure to warn. Abney appealed, and the Supreme Court of Alabama affirmed.

DISPOSITION

affirmed

CASES CITED

- Bussey v. John Deere Co., 531 So. 2d 860, 862 (Ala. 1988)
- Wright v. Wright, 654 So. 2d 542, 543 (Ala. 1995)
- Bass v. SouthTrust Bank of Baldwin County, 538 So. 2d 794, 797-98 (Ala. 1989)
- West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989)
- Wilma Corp. v. Fleming Foods of Alabama, Inc., 613 So. 2d 359 (Ala. 1993)
- Hanners v. Balfour Guthrie, Inc., 564 So. 2d 412, 413 (Ala. 1990)
- Bagley v. Creekside Motors, Inc., 913 So. 2d 441, 443-44 (Ala. 2005)
- Hobson v. American Cast Iron Pipe Co., 690 So. 2d 341, 344 (Ala. 1997)
- Purvis v. PPG Industries, Inc., 502 So. 2d 714, 719 (Ala. 1987)
- Ex parte Chevron Chemical Co., 720 So. 2d 922, 924-26, 929 (Ala. 1998)
- Gurley v. American Honda Motor Co., 505 So. 2d 358, 360-61 (Ala. 1987)
- Ford Motor Co. v. Rodgers, 337 So. 2d 736, 739-40 (Ala. 1976)
- Mathis v. Harrell Co., 828 So. 2d 248, 257 (Ala. 2002)
- Rowden v. Tomlinson, 538 So. 2d 15, 18 (Ala. 1988)
- Hawkins v. Montgomery Industries International, Inc., 536 So. 2d 922, 926-27 (Ala. 1988)
- Entrekin v. Atlantic Richfield Co., 519 So. 2d 447, 450 n. 5 (Ala. 1987)
- Halsey v. A.B. Chance Co., 695 So. 2d 607, 610-11 (Ala. 1997)
- Atkins v. American Motors Corp., 335 So. 2d 134, 143 (Ala. 1976)