

SUPREME COURT OF PENNSYLVANIA

Gerald Criswell, II, and Tracey Criswell, et ux. v. David S. King

575 Pa. 34 (Pa. 2003) · Decided October 21, 2003

SUMMARY

The Supreme Court of Pennsylvania held that a challenge asserting that a jury verdict is contrary to the weight of the evidence need not be raised before the jury is discharged. Such a claim ripens after the verdict and is preserved when timely raised in post-verdict motions. The court distinguished weight-of-the-evidence claims from challenges based on inconsistent or ambiguous verdicts, which require a contemporaneous objection.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Castille; Chief Justice Zappala; Justice Cappy; Justice Nigro; Justice Newman; Justice Saylor; Justice Eakin
JURISDICTION	Pennsylvania
DECIDED	October 21, 2003
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the Superior Court's reversal of a trial court order granting the appellants a new trial on weight-of-the-evidence grounds. The Supreme Court granted allowance of appeal to decide whether a party must object to a jury verdict before the jury is discharged to preserve a weight-of-the-evidence challenge.
STANDARD OF REVIEW	Plenary review because the preservation question presented a legal issue.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Pennsylvania.
PARTIES	Gerald Criswell, II, Tracey Criswell v. David S. King

TOPICS

- appellate procedure
- preservation of error
- civil procedure
- negligence
- personal injury

PRACTICE AREAS

- Civil procedure
- Appellate procedure
- Torts

QUESTIONS PRESENTED

1. Whether a party must object to a jury verdict before the jury is discharged to preserve a claim that the verdict is contrary to the weight of the evidence.
2. Whether the contemporaneous-objection rule applicable to inconsistent verdicts also applies to a post-verdict weight-of-the-evidence challenge.

HOLDINGS

1. A claim that a jury verdict is contrary to the weight of the evidence need not be raised before the jury is discharged; it is preserved when timely raised in post-verdict post-trial motions.
2. The contemporaneous-objection requirement for an inconsistent jury verdict does not apply merely because the losing party characterizes a clear verdict as contrary to the weight of the evidence.

KEY QUOTATIONS

“We hold that a weight of the evidence challenge need not be proffered before discharge of the jury in order to preserve the challenge for post-verdict and appellate review.” (834 A.2d at 505)

“A weight challenge is sui generis.” (834 A.2d at 512)

“But a claim of verdict inconsistency is not the same complaint as a claim sounding in evidentiary weight.” (834 A.2d at 513)

FACTUAL BACKGROUND

King's vehicle struck Criswell's vehicle from behind in an October 12, 1993 automobile accident. Criswell reported headaches and neck pain, later underwent corrective surgery for a herniated disc nearly five years after the accident, and presented expert testimony attributing the disc injury and surgery to the accident. The jury found King negligent but found that his negligence was not a substantial factor in causing Criswell's harm. The trial court determined that this finding was so contrary to the weight of the evidence as to shock the conscience and granted a new trial.

PROCEDURAL HISTORY

Following a negligence jury trial, the jury found King negligent but found that his negligence was not a substantial factor in causing Criswell's harm. Criswell did not object before the jury was discharged but timely filed post-trial motions asserting that the verdict was against the weight of the evidence. The trial court granted a new trial. The Superior Court reversed, holding that Criswell waived the challenge by failing to object before discharge of the jury. The Supreme Court reversed and remanded for the Superior Court to consider the merits of King's appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand to the Superior Court to consider the merits of the appellee's appeal, including the challenge to the trial court's grant of a new trial.

CASES CITED

- Phillips v. A-Best Products Co., 542 Pa. 124, 665 A.2d 1167 (1995)
- Philadelphia Police Department v. Gray, 534 Pa. 467, 633 A.2d 1090 (1993)
- Dilliplaine v. Lehigh Valley Trust Co., 457 Pa. 255, 322 A.2d 114 (1974)
- Jackson v. Phillips, 502 Pa. 326, 466 A.2d 130 (1983)
- Tagnani v. Lew, 493 Pa. 371, 426 A.2d 595 (1981)
- Picca v. Kriner, 435 Pa. Super. 297, 645 A.2d 868 (1994), allocatur denied, 539 Pa. 653, 651 A.2d 540 (1994)
- Fillmore v. Hill, 445 Pa. Super. 324, 665 A.2d 514 (1995)
- King v. Pulaski, 710 A.2d 1200 (Pa. Super. Ct. 1998)
- Burnhauser v. Bumberger, 745 A.2d 1256 (Pa. Super. Ct. 2000)
- Henery v. Shadle, 443 Pa. Super. 331, 661 A.2d 439 (1995)
- Holliday v. Page, 440 Pa. Super. 490, 656 A.2d 136 (1995)
- Hobbs v. Ryce, 769 A.2d 469 (Pa. Super. Ct. 2001)
- Lewis v. Evans, 456 Pa. Super. 285, 690 A.2d 291 (1997)
- Rozanc v. Urbany, 444 Pa. Super. 645, 664 A.2d 619 (1995)
- Armbruster v. Horowitz, 572 Pa. 1, 813 A.2d 698 (2002)
- Commonwealth v. Brown, 538 Pa. 410, 648 A.2d 1177 (1994)
- Howard Express Co. v. Wile, 64 Pa. 201 (1870)
- Cipolone v. Port Authority Transit System of Allegheny County, 667 A.2d 474 (Pa. Commw. Ct. 1995)
- Jarvis v. Ford Motor Co., 283 F.3d 33 (2d Cir. 2002)
- Williams v. KETV Television, Inc., 26 F.3d 1439 (8th Cir. 1994)
- Resolution Trust Corp. v. Stone, 998 F.2d 1534 (10th Cir. 1993)
- White v. Celotex Corp., 878 F.2d 144 (4th Cir. 1989)
- Strauss v. Stratojac Corp., 810 F.2d 679 (7th Cir. 1987)
- Diamond Shamrock Corp. v. Zinke & Trumbo, Ltd., 791 F.2d 1416 (10th Cir. 1986)
- Fernandez v. Chardon, 681 F.2d 42 (1st Cir. 1982)
- Stancill v. McKenzie Tank Lines, Inc., 497 F.2d 529 (5th Cir. 1974)