

COURT OF APPEALS OF UTAH

Gerald A. Smith v. Francisco Jose Creech and Walter Creech

Smith v. Creech, 2025 UT App 195 · No. 20240793-CA · Decided December 26, 2025

SUMMARY

The Utah Court of Appeals considered an appeal arising from a negligence action involving a collision between a vehicle and a stopped school bus. The court held that the plaintiff failed to establish the reasonableness of medical expenses incurred after March 19, 2020, and that the district court improperly excluded evidence concerning the plaintiff’s other medical conditions. It reversed and remanded for amendment of the judgment and a new trial on general damages.

CASE DETAILS

COURT	Court of Appeals of Utah
WRITING FOR THE COURT	David N. Mortensen; Michele M. Christiansen Forster; Amy J. Oliver
JURISDICTION	Utah Court of Appeals
DECIDED	December 26, 2025
DOCKET	20240793-CA
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	The defendants appealed after a jury returned a negligence verdict for Smith and awarded nearly \$670,000 in damages.
STANDARD OF REVIEW	The denial of a motion for directed verdict is reviewed for correctness, viewing the evidence and reasonable inferences in the light most favorable to the party opposing the motion. Evidentiary rulings and discovery orders are reviewed for abuse of discretion, with legal errors affecting the exercise of discretion reviewed for correctness. Interpretation of caselaw is reviewed for correctness.
PRECEDENTIAL VALUE	published
PARTIES	Francisco Jose Creech, Walter Creech v. Gerald A. Smith

TOPICS

- negligence
- personal injury
- evidence
- motion for directed verdict
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the district court erred by denying the defendants' motion for a directed verdict on medical expenses incurred after March 19, 2020, when Smith offered evidence of necessity and causation but no evidence that the charges were reasonable.
2. Whether the district court abused its discretion by excluding evidence of Smith's preexisting and subsequent medical issues that the defendants could not connect to the claimed damages through expert testimony.
3. Whether the district court abused its discretion by excluding Dr. Mattingly's opinions based on surveillance footage.
4. Whether the district court abused its discretion by excluding Dr. Mattingly's biomechanical opinions under the expert-disclosure requirements.

HOLDINGS

1. The district court should have granted a directed verdict for the defendants on medical expenses incurred after March 19, 2020, because Smith presented no evidence that those charges were reasonable.
2. The district court abused its discretion by excluding all evidence of Smith's preexisting and subsequent medical issues merely because the defendants lacked expert testimony connecting those issues to the asserted damages.
3. The district court did not abuse its discretion by excluding Dr. Mattingly's surveillance-based opinions because the videos lacked sufficient indicia of reliability and Dr. Mattingly could not confirm that they accurately depicted Smith.
4. The district court did not abuse its discretion by excluding Dr. Mattingly's biomechanical opinions under the expert-disclosure requirements because the defendants did not adequately disclose those opinions and Dr. Mattingly lacked a formal background in biomechanics.

KEY QUOTATIONS

“once injuries have been shown, evidence is required to show that the medical expenses accurately reflect the necessary treatment that resulted from the injuries and that the charges are reasonable.” (¶ 20)

“A court has no way to assess whether a medical bill, standing alone, constitutes evidence of a reasonable charge.” (¶ 21)

“We do not read that language to require that a district court bar a defendant from adducing relevant evidence of a plaintiff’s preexisting condition that it cannot necessarily tie to the plaintiff’s asserted damages with expert testimony.” (¶ 31)

“The error was harmful because it fundamentally altered the evidentiary landscape regarding general damages in this case.” (¶ 45)

FACTUAL BACKGROUND

Francisco Creech, who did not have a driver's license, was driving a Chevrolet Tracker at approximately 55 miles per hour while adjusting the radio when he struck a school bus stopped to unload students. Gerald Smith, the bus driver, sustained a neck injury, required treatment, and stopped driving the bus because driving exacerbated his pain. Smith claimed damages for the crash, including medical expenses and general damages, while the defendants sought to introduce evidence of Smith's preexisting and subsequent medical conditions.

PROCEDURAL HISTORY

Smith sued Francisco Creech for negligent operation of a motor vehicle and Walter Creech for negligent entrustment after Francisco crashed into Smith's stopped school bus. Following a four-day jury trial, the jury found for Smith and awarded damages, including \$302,400 in general damages. The district court denied the defendants' motion for a partial directed verdict and excluded evidence concerning Smith's other medical issues. The Utah Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The district court must direct a verdict in the defendants' favor on Smith's medical expenses incurred after March 19, 2020, amend the judgment accordingly, and hold a new trial on general damages.

CASES CITED

- Gorostieta v. Parkinson, 2000 UT 99, 17 P.3d 1110
- Stevenett v. Wal-Mart Stores, Inc., 1999 UT App 80, 977 P.2d 508
- Klein v. Harper, 186 N.W.2d 426 (N.D. 1971)
- Florez v. Schindler Elevator Corp., 2010 UT App 254, 240 P.3d 107
- Proctor v. Costco Wholesale Corp., 2013 UT App 226, 311 P.3d 564
- Beard v. K-Mart Corp., 2000 UT App 285, 12 P.3d 1015
- Neely v. Bennett, 2002 UT App 189, 51 P.3d 724
- Anderson v. Larry H. Miller Communications Corp., 2015 UT App 134, 351 P.3d 832
- Phillips v. Skabelund, 2021 UT App 2, 482 P.3d 237
- Eskelson ex rel. Eskelson v. Davis Hospital & Medical Center, 2010 UT 59, 242 P.3d 762
- State v. Cooke, 2025 UT 6, 567 P.3d 541
- Harris v. ShopKo Stores, Inc., 2013 UT 34, 308 P.3d 449
- Schreib v. Whitmer, 2016 UT App 61, 370 P.3d 955
- Gines v. Edwards, 2017 UT App 47, 397 P.3d 612
- Glacier Land Co. v. Claudia Klawe & Associates, LLC, 2006 UT App 516, 154 P.3d 852
- Pinney v. Carrera, 2020 UT 43, 469 P.3d 970

- Taylor v. University of Utah, 2020 UT 21, 466 P.3d 124
- ConocoPhillips Co. v. Utah Department of Transportation, 2017 UT App 68, 397 P.3d 772
- Green v. Louder, 2001 UT 62, 29 P.3d 638
- Allen v. Friel, 2008 UT 56, 194 P.3d 903
- Smith v. Ingersoll-Rand Co., 214 F.3d 1235 (10th Cir. 2000)
- Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993)
- In re B.D., 2024 UT App 104, 556 P.3d
- Cove at Little Valley Homeowners' Association v. Traverse Ridge Special Services District, 2022 UT 23, 513 P.3d 658
- Scott Anderson Trucking Inc. v. Nielson Construction, 2020 UT App 43, 462 P.3d 822