

SUPREME COURT OF FLORIDA

Willis v. Gami Golden Glades, LLC

967 So. 2d 846 (Fla. 2007) · No. No. SC04-1929 · Decided October 18, 2007

SUMMARY

The Supreme Court of Florida held that the impact rule did not bar Marjorie Willis's claim for emotional distress because the alleged assailant physically touched her with a gun and patted down her body. The court answered the first certified question affirmatively, quashed the Third District's decision, disapproved Ruttger Hotel Corp. v. Wagner, and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Per Curiam; Lewis, C.J.; Anstead, J.; Pariente, J.; Quince, J.; Wells, J.; Cantero, J.; Bell, J.
JURISDICTION	Florida
DECIDED	October 18, 2007
DOCKET	No. SC04-1929
DISPOSITION	quashed
PROCEDURAL POSTURE	Review of a decision of the Third District Court of Appeal affirming a final summary judgment for the defendants in a negligence action seeking damages for severe psychological injury. The district court certified questions of great public importance concerning Florida's impact rule.
STANDARD OF REVIEW	Summary judgment is reviewed with the facts and all reasonable inferences viewed in the light most favorable to the nonmoving party. The moving party must conclusively demonstrate the absence of any genuine issue of material fact and entitlement to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; binding statewide precedent.
PARTIES	Marjorie Willis, et vir. v. GAMI Golden Glades, LLC, American Knights Security, Inc.

TOPICS

negligent infliction of emotional distress

negligence

premises liability

summary judgment

appellate procedure

PRACTICE AREAS

torts

negligence

negligent infliction of emotional distress

premises liability

appellate procedure

summary judgment

QUESTIONS PRESENTED

1. Whether physical contact from a pistol placed against the plaintiff's head and the assailant's pat-down of her body constituted sufficient impact under Florida's impact rule.
2. Whether the plaintiff's alleged assault and batteries independently satisfied a free-standing-tort exception to the impact rule.
3. Whether the innkeeper-guest relationship constituted a special-relationship exception to the impact rule.
4. Whether Florida's impact rule should be abolished.

HOLDINGS

1. The plaintiff's claim satisfied Florida's impact requirement because the assailant placed a gun against her temple and physically touched her body during the pat-down. When an impact or touching has occurred, Florida's impact rule does not bar a claim for emotional-distress damages, regardless of the absence of a separate visible physical injury.
2. The Third District's decision affirming summary judgment was quashed, and *Ruttger Hotel Corp. v. Wagner* was disapproved to the extent it applied the impact rule to bar recovery despite physical contact.

KEY QUOTATIONS

“When an impact or touching has occurred the rule has no application.” (850)

“The essence of impact, then, it seems, is that the outside force or substance, no matter how large or small, visible or invisible, and no matter that the effects are not immediately deleterious, touch or enter into the plaintiff's body.” (850)

FACTUAL BACKGROUND

Marjorie Willis was a guest at a Holiday Inn owned by GAMI, which had contracted with American Knights Security for security services. A security guard directed her to park across the street in a dark and unfamiliar lot while assuring her that it was safe. As she exited her vehicle, an assailant placed a gun against her head, ordered her to empty her pockets, and patted down her exposed body before stealing her rental car. Willis subsequently experienced severe anxiety, depression, panic attacks, and post-traumatic stress disorder, with medical evidence identifying physical manifestations including sexual dysfunction, temperature changes, muscle tightening, and increased sweat gland activity.

PROCEDURAL HISTORY

The trial court entered final summary judgment for GAMI Golden Glades, LLC and American Knights Security, Inc., concluding that Florida's impact rule barred the Willises' claim for psychological damages. The Third District Court of Appeal affirmed and certified four questions to the Supreme Court of Florida. The Supreme Court answered the first question affirmatively, quashed the district court's decision, disapproved Ruttger Hotel Corp. v. Wagner, and remanded.

DISPOSITION

quashed

REMAND INSTRUCTIONS

The case was remanded to the Third District Court of Appeal for proceedings consistent with the Supreme Court's opinion.

CASES CITED

- Willis v. Gami Golden Glades, LLC, 881 So. 2d 703 (Fla. 3d DCA 2004)
- Ruttger Hotel Corp. v. Wagner, 691 So. 2d 1177 (Fla. 3d DCA 1997)
- Zell v. Meek, 665 So. 2d 1048 (Fla. 1995)
- Eagle-Picher Industries, Inc. v. Cox, 481 So. 2d 517 (Fla. 3d DCA 1985)
- Moore v. Morris, 475 So. 2d 666 (Fla. 1985)
- Hagan v. Coca-Cola Bottling Co., 804 So. 2d 1234 (Fla. 2001)
- Rowell v. Holt, 850 So. 2d 474 (Fla. 2003)
- Gracey v. Eaker, 837 So. 2d 348 (Fla. 2002)
- Kush v. Lloyd, 616 So. 2d 415 (Fla. 1992)
- Tanner v. Hartog, 696 So. 2d 705 (Fla. 1997)
- Clark v. Choctawhatchee Electric Co-Operative, Inc., 107 So. 2d 609 (Fla. 1958)
- International Ocean Telegraph Co. v. Saunders, 32 Fla. 434, 14 So. 148 (1893)
- Crane v. Loftin, 70 So. 2d 574 (Fla. 1954)
- Kirksey v. Jernigan, 45 So. 2d 188 (Fla. 1950)
- Brown v. Cadillac Motor Car Division, 468 So. 2d 903 (Fla. 1985)
- R.J. v. Humana of Florida, Inc., 652 So. 2d 360 (Fla. 1995)
- Markowitz v. Helen Homes of Kendall Corp., 826 So. 2d 256 (Fla. 2002)
- Consolidated Rail Corp. v. Gottshall, 512 U.S. 532 (1994)