

SUPREME COURT OF VIRGINIA

Dill v. Kroger Limited Partnership I

Dill v. Kroger Limited Partnership I · No. Record No. 200823 · Decided July 8, 2021

SUMMARY

The Supreme Court of Virginia held that the plaintiff presented sufficient evidence for a jury to determine whether defendants lacked probable cause and acted with malice in identifying her as a shoplifter, so the malicious prosecution claim should not have been stricken. The Court upheld dismissal of the false imprisonment claim because the plaintiff was detained pursuant to a valid warrant and lawful legal process. The judgment was affirmed in part, reversed in part, and remanded.

CASE DETAILS

COURT	Supreme Court of Virginia
WRITING FOR THE COURT	Justice S. Bernard Goodwyn; All the Justices
JURISDICTION	Virginia
DECIDED	July 8, 2021
DOCKET	Record No. 200823
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from a final order granting defendants' motion to strike the plaintiff's case-in-chief on claims for malicious prosecution, false imprisonment, intentional infliction of emotional distress, and defamation.
STANDARD OF REVIEW	A motion to strike is reviewed in the light most favorable to the non-moving party. The court must presume that the jury will believe all evidence favorable to the plaintiff and draw all reasonable inferences in the plaintiff's favor, without weighing evidence or judging witness credibility.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Shirley Dill v. Kroger Limited Partnership I, Sarah Lynch

TOPICS

false imprisonment

torts

appellate procedure

standard of review

PRACTICE AREAS

torts

civil procedure

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remedies

QUESTIONS PRESENTED

1. Whether the circuit court applied the proper standard of review in granting defendants' motion to strike.
2. Whether the evidence was sufficient to submit Dill's malicious prosecution claim to the jury, including the elements of lack of probable cause and malice.
3. Whether Dill could maintain a false imprisonment claim when her detention resulted from warrants issued by a magistrate and was followed by a lawful appearance and bond process.

HOLDINGS

1. The circuit court erred in striking Dill's malicious prosecution claim because, viewing the evidence and reasonable inferences in Dill's favor, the evidence created a jury question regarding probable cause to believe that Dill—not Rosenmeier—was the shoplifter and whether malice could be inferred.
2. The circuit court properly struck Dill's false imprisonment claim because her detention resulted from valid warrants and lawful legal process; neither malice nor lack of probable cause is an element of false imprisonment under these circumstances.

KEY QUOTATIONS

“We review a circuit court’s decision on a motion to strike in the light most favorable to the non-moving party, and the non-moving party “must be given the benefit of all substantial conflict in the evidence, and all fair inferences that may be drawn therefrom.”” (7)

“When there is a conflict of evidence concerning probable cause, the issue of whether probable cause existed is a question reserved for the jury’s determination.” (8)

“A jury may infer malice from a history of animosity between the parties because the determination of malice is based on the parties’ entire course of conduct towards each other.” (10)

“However, in no case may a person prevail on a claim of false imprisonment if her arrest was lawful.” (13)

FACTUAL BACKGROUND

Kroger employees mistakenly identified Susan Rosenmeier, who used her own Kroger Plus Card during shoplifting incidents, as Shirley Dill. Based on that identification and surveillance videos, police obtained two warrants charging Dill with petty larceny; Dill reported to the police, was placed on bond, and was restricted from leaving Virginia and visiting Kroger. The charges were later dismissed with prejudice when Dill's lawyer and the Commonwealth's attorney recognized that the person in the video did not resemble Dill, and Kroger later confirmed that the actual shoplifter was Rosenmeier.

PROCEDURAL HISTORY

Dill filed suit in the Circuit Court of the City of Staunton after criminal shoplifting charges based on mistaken identification were dismissed with prejudice. The circuit court denied defendants' demurrers, but after Dill presented her case at trial, granted defendants' motion to strike all claims. The Supreme Court of Virginia affirmed the ruling on the false imprisonment, intentional infliction of emotional distress, and defamation claims, reversed the ruling on malicious prosecution, and remanded for further trial proceedings.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for trial proceedings on Dill's malicious prosecution claim in accordance with the opinion; the rulings striking the other claims remain affirmed.

CASES CITED

- Egan v. Butler, 290 Va. 62, 73
- Tahboub v. Thiagarajah, 298 Va. 366, 371
- Green v. Ingram, 269 Va. 281, 290
- Lewis v. Kei, 281 Va. 715, 722-24
- Reilly v. Shepherd, 273 Va. 728, 733-34
- Giant of Va., Inc. v. Pigg, 207 Va. 679, 684-85
- Hudson v. Lanier, 255 Va. 330, 333
- Freezer v. Miller, 163 Va. 180, 202, 204, 207
- Pallas v. Zaharopoulos, 219 Va. 751, 755, 757
- Clinchfield Coal Corp. v. Redd, 123 Va. 420, 443-44, 446
- Southern Ry. Co. v. Mosby, 112 Va. 169, 179-80
- Lane v. Scott, 220 Va. 578, 582
- Montgomery Ward & Co. v. Wickline, 188 Va. 485, 489-90
- Zayre of Va., Inc. v. Gowdy, 207 Va. 47, 50-51
- Kress & Co. v. Roberts, 143 Va. 71, 75

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