

SUPREME COURT OF WYOMING

Hannifan v. American National Bank of Cheyenne

2008 WY 65 (Wyo. 2008) · No. S-07-0156 · Decided June 11, 2008

SUMMARY

The Wyoming Supreme Court affirmed judgments arising from injuries suffered by a mine employee when a boulder struck the mining equipment he was operating. The court held that sufficient evidence supported jury findings that two co-employees engaged in willful and wanton misconduct under Wyoming's co-employee liability statute. The court also rejected challenges to the jury instructions and to opposing counsel's closing argument concerning allocation of fault to the nonparty employer.

CASE DETAILS

COURT	Supreme Court of Wyoming
WRITING FOR THE COURT	Hill, Justice; Voigt, Chief Justice; Golden, Justice; Kite, Justice; Burke, Justice
JURISDICTION	Wyoming
DECIDED	June 11, 2008
DOCKET	S-07-0156
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment entered after a jury verdict imposing co-employee liability for willful and wanton misconduct, with appellants challenging the sufficiency of the evidence, jury instructions, and denial of a mistrial and new trial.
STANDARD OF REVIEW	Sufficiency of the evidence is reviewed with great deference to the jury verdict, assuming evidence supporting the successful party to be true and drawing reasonable favorable inferences. Jury instructions are reviewed as a whole for whether they adequately and clearly state the applicable law; reversal requires prejudicial error. Motions for mistrial and new trial are reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Wyoming Supreme Court opinion; precedential
PARTIES	Michael Hannifan, Kevin Hampleman v. The American National Bank of Cheyenne, as Conservator of the Estate of Leslie Roy "Les" Butts, Davis Butts, Dawson Butts

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QUESTIONS PRESENTED

1. Whether the evidence was sufficient to support co-employee liability under Wyo. Stat. Ann. § 27-14-104(a) and the willful-and-wanton misconduct standard.
2. Whether the district court adequately instructed the jury on co-employee liability and properly rejected appellants' proposed instructions.
3. Whether the district court abused its discretion in denying a mistrial and a new trial based on plaintiffs' closing argument concerning fault attributed to the nonparty employer.

HOLDINGS

1. The evidence was sufficient for the jury to find that Hannifan and Hampleman acted with willful and wanton misconduct, which has the same legal effect as intentionally acting to cause physical harm or injury under Wyo. Stat. Ann. § 27-14-104(a).
2. The district court's instructions, taken as a whole, adequately conveyed Wyoming law concerning co-employee liability and did not require reversal.
3. The district court did not abuse its discretion in denying appellants' motions for a mistrial and a new trial based on plaintiffs' closing argument concerning the nonparty employer's fault.

KEY QUOTATIONS

"We continue to believe the concept of willful and wanton misconduct has essentially the same legal effect as the statutory language "intentionally act to cause physical harm or injury." (¶ 7)

"We have carefully examined the instructions that the district court gave to the jury, in light of the instructions offered by the Appellants, and we conclude that the instructions given adequately conveyed to the jury this Court's interpretation of § 27-14-104(a) as it is set out in the Bertagnolli case, and that those instructions served to properly guide the jury's decision-making process in this particular case." (¶ 35)

"The Judgment of the district court is affirmed." (¶ 42)

FACTUAL BACKGROUND

Les Butts was operating a Terra-Gator at Thunder Basin Coal Company's Black Thunder Mine when a large boulder fell from a high wall and struck the equipment, rendering him paraplegic. The accident occurred in an unusually narrow mine area with steep high walls, ineffective debris-filled catch benches, and known safety concerns. Michael Hannifan, the mine safety manager, and Kevin Hampleman, the mine manager, had been warned about the unstable high wall and inspected the area before deciding to continue operations. The Terra-Gator lacked a falling-object protective structure that the court found would have protected Butts.

PROCEDURAL HISTORY

The district court denied appellants' pretrial motions for summary judgment, their W.R.C.P. 50 motion during trial, and their posttrial motion for a new trial. The jury attributed 25 percent fault to Hampleman, 18 percent to Hannifan, and 57 percent to nonparty Thunder Basin Coal Company, and awarded damages to Les Butts and his children. The district court entered judgments against the appellants, and the Wyoming Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Bertagnolli v. Louderback, 2003 WY 50, 67 P.3d 627 (Wyo. 2003)
- Torres v. State ex rel. Division, 2005 WY 7, 105 P.3d 101 (Wyo. 2005)
- Mills v. Reynolds, 837 P.2d 48 (Wyo. 1992)
- Weaver v. Mitchell, 715 P.2d 1361 (Wyo. 1986)
- Mayflower Restaurant Co. v. Griego, 741 P.2d 1106 (Wyo. 1987)
- Fosler v. Collins, 13 P.3d 686 (Wyo. 2000)
- Voss v. Ralston, 550 P.2d 481 (Wyo. 1976)
- Andersen, 2002 WY 105, 49 P.3d 1011
- Calkins v. Boydston, 796 P.2d 452 (Wyo. 1990)
- Smith v. Throckmartin, 893 P.2d 712 (Wyo. 1995)
- McKennan v. Newman, 902 P.2d 1285 (Wyo. 1995)
- Poulos v. HPC, Inc., 765 P.2d 364 (Wyo. 1988)
- Case v. Goss, 776 P.2d 188 (Wyo. 1989)
- City of Rock Springs v. Police Protection Ass'n, 610 P.2d 975 (Wyo. 1980)
- Brittain v. Booth, 601 P.2d 532 (Wyo. 1979)
- Neal v. Wailes, 346 P.2d 132 (Wyo. 1959)
- Berta v. Ford, 469 P.2d 12 (Wyo. 1970)
- Ford Motor Co. v. Arguello, 382 P.2d 886 (Wyo. 1963)
- Crown Cork & Seal Co. v. Admiral Beverage Corp., 638 P.2d 1272 (Wyo. 1982)
- Francis v. Pountney, 972 P.2d 143 (Wyo. 1999)
- Knowles v. Corkill, 2002 WY 119, 51 P.3d 859 (Wyo. 2002)
- John Q. Hammons Inc. v. Poletis, 954 P.2d 1353 (Wyo. 1998)
- Union Pacific Railroad Co. v. Richards, 702 P.2d 1272 (Wyo. 1985)
- Sellers v. Dooley Oil Transport, 2001 WY 44, 22 P.3d 307 (Wyo. 2001)
- Cervelli v. Graves, 661 P.2d 1032 (Wyo. 1983)
- Daley v. Wenzel, 2001 WY 80, 30 P.3d 547 (Wyo. 2001)
- Espinoza v. State, 969 P.2d 542 (Wyo. 1998)

- Ross v. State, 930 P.2d 965 (Wyo. 1996)
- Vaughn v. State, 962 P.2d 149 (Wyo. 1998)
- Martin v. State, 720 P.2d 894 (Wyo. 1986)
- Stroup v. Oedekoven, 995 P.2d 125 (Wyo. 1999)
- Jordan v. Brackin, 992 P.2d 1096 (Wyo. 1999)
- Haderlie v. Sondgeroth, 866 P.2d 703 (Wyo. 1993)
- Terry v. Sweeney, 10 P.3d 554 (Wyo. 2000)
- Pauley v. Newman, 2004 WY 76, 92 P.3d 819 (Wyo. 2004)

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