

DISTRICT OF COLUMBIA COURT OF APPEALS

Briscoe v. District of Columbia

62 A.3d 1275 (D.C. 2013) · Decided March 21, 2013

SUMMARY

Gwendolyn Briscoe sued the District of Columbia for negligence after tripping on a small defect in a curbstone. The District Court granted summary judgment, and the District of Columbia Court of Appeals affirmed, holding that the alleged defect was de minimis and that Briscoe failed to establish constructive notice. The court also rejected her challenge to the denial of further discovery.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Terry, Senior Judge; Easterly; McLeese; Terry
JURISDICTION	District of Columbia
DECIDED	March 21, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a Superior Court order granting the District of Columbia's motion for summary judgment in a negligence action arising from a fall allegedly caused by a defective curbstone.
STANDARD OF REVIEW	De novo review of summary judgment; the appellate court applies the same standard as the trial court, granting summary judgment when no genuine issue of material fact exists and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Gwendolyn Briscoe v. District of Columbia

TOPICS

- premises liability
- negligence
- summary judgment
- municipal liability
- discovery dispute

PRACTICE AREAS

- negligence
- premises liability
- municipal liability
- civil procedure

QUESTIONS PRESENTED

1. Whether the alleged curbstone defect was so minor or de minimis that the District was entitled to judgment as a matter of law on the negligence claim.
2. Whether Briscoe presented a genuine issue of material fact concerning the District's constructive notice of the alleged defect.
3. Whether the trial court erred or abused its discretion by refusing to permit further discovery before granting summary judgment.

HOLDINGS

1. A municipality is entitled to judgment as a matter of law when the alleged sidewalk or curbstone defect is de minimis or otherwise insignificant, even if the municipality had notice of it. The defect shown in this case was legally de minimis, so Briscoe could not prevail on her negligence claim.
2. Briscoe failed to establish a genuine issue of material fact that the District had constructive notice of the inconspicuous and insignificant curbstone defect.
3. The trial court did not err in granting summary judgment without permitting further discovery because Briscoe did not file an affidavit identifying facts essential to oppose summary judgment or explaining how additional discovery would produce them.

KEY QUOTATIONS

“A municipality cannot be expected to maintain the surface of its sidewalks free from all inequalities and from every possible obstruction to travel.” (62 A.3d at 1278)

“After reviewing the record in this case, we conclude as a matter of law that any defect in the curbstone was de minimis, and that appellant therefore cannot prevail on her negligence claim against the District.” (62 A.3d at 1279)

“We agree with the District and conclude that the “peculiar circumstances” of this case reveal no genuine issue of material fact as to whether the District had constructive notice of such an inconspicuous and insignificant defect.” (62 A.3d at 1280)

FACTUAL BACKGROUND

Gwendolyn Briscoe fell while crossing the street near her home and attributed her injuries to a small indentation or missing piece along the upper edge of a curbstone. She alleged that the deterioration had existed for years and that District employees had opportunities to observe it, but conceded that the District had no actual notice. Photographs showed a defect approximately two to three inches long and about one inch deep, located inconspicuously on the edge of a curb in the middle of a usually heavily parked block.

PROCEDURAL HISTORY

Briscoe sued the District of Columbia for personal injuries, alleging that the District negligently failed to repair a deteriorated curbstone. The Superior Court granted the District's motion for summary judgment, finding no genuine issue of material fact concerning actual or constructive notice and ruling that the defect was too

insignificant to require repair. The Court of Appeals affirmed, also rejecting Briscoe's challenge to the refusal to permit further discovery.

DISPOSITION

affirmed

CASES CITED

- *Clampitt v. American University*, 957 A.2d 23, 28 (D.C. 2008)
- *Rajabi v. Potomac Electric Power Co.*, 650 A.2d 1319, 1322 (D.C. 1994)
- *Proctor v. District of Columbia*, 273 A.2d 656, 658-59 (D.C. 1971)
- *Barrett v. City of Claremont*, 41 Cal. 2d 70, 73, 256 P.2d 977, 980 (1953)
- *Williams v. District of Columbia*, 646 A.2d 962, 962-63 (D.C. 1992)
- *Lynn v. District of Columbia*, 734 A.2d 168, 170 (D.C. 1999)
- *District of Columbia v. Woodbury*, 136 U.S. 450, 464 (1890)
- *Washington Metropolitan Area Transit Authority v. Davis*, 606 A.2d 165, 176 (D.C. 1992)
- *McAllister v. District of Columbia*, 653 A.2d 849, 852-53 (D.C. 1995)
- *Washington Gas Light Co. v. Jones*, 332 A.2d 358, 360 (D.C. 1975)
- *Klein v. District of Columbia*, 133 U.S. App. D.C. 129, 130, 409 F.2d 164, 165 (1969)
- *Curtis v. District of Columbia*, 117 U.S. App. D.C. 265, 266, 328 F.2d 566, 567 (1964)
- *District of Columbia v. Cooper*, 445 A.2d 652, 653 (D.C. 1982) (en banc)