

SUPREME COURT OF FLORIDA

Roberts v. Braynon

90 So. 2d 623 (Fla. 1956) · Decided November 7, 1956

SUMMARY

The Florida Supreme Court considers whether an injured passenger was a guest subject to Florida's guest statute or instead participated in a joint enterprise. The court held that the undisputed facts supported application of the guest statute and affirmed summary judgment, but without prejudice to the plaintiff seeking leave to amend to allege gross negligence. The opinion also addresses the notice and procedural requirements for entering summary judgment following a pretrial conference.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Hobson, Justice; Drew, C.J.; Thornal, J.; Knott, Associate Justice
JURISDICTION	Florida
DECIDED	November 7, 1956
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from a summary final judgment entered for the defendant in a negligence action arising from an automobile accident.
STANDARD OF REVIEW	The court reviewed whether the record showed no genuine issue of material fact and whether the defendant was entitled to judgment as a matter of law, while also reviewing the propriety of entering summary judgment sua sponte after a pretrial conference without the required notice and opportunity to respond.
PRECEDENTIAL VALUE	Published Florida Supreme Court opinion; precedential.
PARTIES	Katie Roberts v. Rosemary Braynon

TOPICS

- personal injury
- negligence
- summary judgment
- standard of review
- appellate procedure

PRACTICE AREAS

- torts
- civil procedure
- appellate procedure

QUESTIONS PRESENTED

1. Whether Roberts was a guest within the meaning of Florida's guest statute, such that she was required to plead and prove gross negligence rather than ordinary negligence.
2. Whether the circuit court could enter summary judgment on its own motion after a pretrial conference when the plaintiff had received less than ten days' notice and had not been given a reasonable opportunity to show that a genuine issue of material fact remained.
3. Whether the existing record conclusively negated any possibility that Roberts could establish gross negligence.

HOLDINGS

1. Roberts was a guest within the meaning of Florida Statutes section 320.59. Her social relationship with Braynon, lack of control over the vehicle, itinerary, or destination, and merely convenient role in caring for the children did not create the community of interest or joint control necessary to remove the trip from the guest statute.
2. A trial court may enter summary judgment on its own motion after a pretrial conference if the conference eliminates all factual issues and leaves only a legal issue, but the court must provide the same notice and preparation opportunity required for a party's summary-judgment motion.
3. The existing record did not conclusively preclude Roberts from proving gross negligence, because the evidence that Braynon's brakes failed, that she could not stop, and that she entered an intersection against a red light left open the possibility of a gross-negligence showing.

KEY QUOTATIONS

"The purpose of a pretrial is to simplify the issue. If the conference progresses to the point of eliminating all questions of fact, then the court may give judgment according to the law on the facts before him." (626)

"Therefore, as a matter of construction of the Rules, if less than ten days' notice of the pretrial conference has been given, counsel should upon request be permitted a reasonable opportunity to make a showing that a genuine issue of material fact remains before summary judgment is entered by the trial court of its own motion." (627)

FACTUAL BACKGROUND

Roberts was a social guest in Braynon's home and accompanied Braynon in Braynon's automobile to obtain an airline reservation and take laundry to a self-service laundry. Two children in Braynon's temporary custody accompanied them, and Roberts expected to remain in the automobile to watch the children while Braynon attended to the laundry. Before reaching the airline ticket office, Braynon's brakes allegedly failed, and the automobile entered an intersection against a red light and collided with another vehicle. Roberts continued living in Braynon's home for more than two months after the accident.

PROCEDURAL HISTORY

Roberts sued Braynon for injuries sustained while riding as a passenger in Braynon's automobile, alleging simple negligence and relying on the circumstances of the trip to avoid application of Florida's guest statute. After the pleadings closed, the circuit court held a pretrial conference, considered the plaintiff's deposition and admissions, and entered summary judgment for Braynon, including after the plaintiff objected that she had not received the required notice. The Supreme Court of Florida affirmed, but without prejudice to Roberts seeking leave to amend her complaint to allege facts constituting gross negligence.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The judgment was affirmed without prejudice to Roberts's seeking, within a time set by the trial court, leave to amend her complaint to allege facts, if any, constituting gross negligence. Whether to grant leave rested within the sound discretion of the trial judge.

CASES CITED

- Peery v. Mershon, 149 Fla. 351, 5 So. 2d 694
- McDougald v. Couey, 150 Fla. 748, 9 So. 2d 187
- Yokom v. Rodriguez, 41 So. 2d 446, 448 (Fla.)
- Waite v. Dade County, 74 So. 2d 681 (Fla.)
- Hillsborough County v. Sutton, 150 Fla. 601, 8 So. 2d 401, 402
- Town of Coreytown v. State ex rel. Ervin, 60 So. 2d 482 (Fla.)
- Cook v. Navy Point, Inc., 88 So. 2d 532 (Fla.)
- Lewis v. Lewis, 73 So. 2d 72 (Fla.)
- Fellowship Foundation v. Paul, 86 So. 2d 808 (Fla.)