

SUPREME COURT OF RHODE ISLAND

Michael Botelho v. Caster's Inc. d/b/a Caster's Bicycles and Fitness

970 A.2d 541 (R.I. 2009) · No. No. 2007-270-Appeal · Decided May 15, 2009

SUMMARY

The Rhode Island Supreme Court affirmed the judgment for Caster's Inc. in a negligence action arising from the plaintiff's bicycle accident during a test ride. The court upheld the denial of the plaintiff's motion for judgment as a matter of law and motion for a new trial, concluding that comparative negligence was properly submitted to the jury and that the plaintiff's objections to the structure and presentation of the jury instructions were waived.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Justice Robinson; Goldberg, Acting C.J.; Flaherty, J.; Suttell, J.; Robinson, J.; Williams, C.J. (ret.)
JURISDICTION	Rhode Island
DECIDED	May 15, 2009
DOCKET	No. 2007-270-Appeal
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the Superior Court's denial of his motion for judgment as a matter of law on comparative negligence and his motion for a new trial, following a jury verdict finding the defendant not negligent. He also challenged the jury instructions.
STANDARD OF REVIEW	The Supreme Court applies the same standard as the trial justice when reviewing denial of judgment as a matter of law under Rule 50(a)(1), viewing the evidence in the light most favorable to the nonmoving party without weighing evidence or assessing credibility. Jury instructions are reviewed in their entirety and reversal for an erroneous instruction requires prejudice. A ruling on a Rule 59 motion for a new trial is accorded great weight and will not be disturbed unless the trial justice overlooked or misconceived material evidence or was otherwise clearly wrong.
PRECEDENTIAL VALUE	Published Rhode Island Supreme Court opinion; precedential.
PARTIES	Michael Botelho v. Caster's Inc. d/b/a Caster's Bicycles and Fitness

TOPICS

negligence

comparative fault

jury instructions

appellate procedure

PRACTICE AREAS

negligence

civil procedure

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QUESTIONS PRESENTED

1. Whether the Superior Court properly denied Botelho's motion for judgment as a matter of law on the issue of his comparative negligence.
2. Whether the challenged jury instructions improperly suggested that Botelho bore the burden of proving his own non-negligent operation of the bicycle or were otherwise structurally biased.
3. Whether the Superior Court properly denied Botelho's motion for a new trial under Rule 59.

HOLDINGS

1. The denial of judgment as a matter of law was proper because, viewing the evidence in the light most favorable to Caster's, reasonable minds could differ as to whether Botelho was comparatively negligent.
2. Botelho waived appellate review of his argument that the jury instructions were biased in structure and presentation because he did not make a sufficiently specific objection identifying those alleged defects at trial.
3. The Superior Court properly denied the motion for a new trial because it conducted the required independent appraisal of the evidence and reasonably determined that reasonable minds could differ concerning the cause of the accident and the parties' negligence.

KEY QUOTATIONS

"The motion must be denied if there are factual issues concerning which reasonable people may reach differing conclusions." (at 545)

"The purpose of the specificity requirement is to give the trial justice a chance to remedy any deficiency in the charge while there is still a meaningful opportunity to effectuate such a remedy." (at 548)

"In this jurisdiction a trial justice, as he [or she] considers the pros and cons of such a motion, acts as a 'super juror' or a 'thirteenth juror' in that he [or she] makes an independent appraisal of the evidence in the light of his [or her] charge to the jury." (at 549)

FACTUAL BACKGROUND

Michael Botelho, an experienced recreational bicyclist, visited Caster's Bicycles and Fitness to test lightweight bicycles. He had never ridden a bicycle equipped with aerobars before and, while test-riding a Kestrel KM40 downhill, became confused about the bicycle's controls and lost control, falling and sustaining significant injuries. The evidence also suggested that he may have struck a stone or other obstruction. Caster's denied negligence and asserted comparative negligence by Botelho.

PROCEDURAL HISTORY

Botelho sued Caster's Inc. in the Superior Court for Kent County for negligence arising from a bicycle test-ride accident. After a jury trial, the jury returned a verdict finding Caster's not negligent. The Superior Court denied Botelho's motion for judgment as a matter of law and later denied his Rule 59 motion for a new trial. The Rhode Island Supreme Court denied the appeal and affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers in the case may be remanded to the Superior Court; the judgment itself was affirmed.

CASES CITED

- Marcil v. Kells, 936 A.2d 208, 212 (R.I. 2007)
- Mills v. State Sales, Inc., 824 A.2d 461, 472 (R.I. 2003)
- Broadley v. State, 939 A.2d 1016, 1020 (R.I. 2008)
- Trainor v. The Standard Times, 924 A.2d 766, 769 (R.I. 2007)
- Morinville v. Old Colony Co-operative Newport National Bank, 522 A.2d 1218, 1222 (R.I. 1987)
- Riley v. Stone, 900 A.2d 1087, 1092 (R.I. 2006)
- Parrella v. Bowling, 796 A.2d 1091, 1101 (R.I. 2002)
- Hodges v. Brannon, 707 A.2d 1225, 1228 (R.I. 1998)
- Anter v. Ambeault, 104 R.I. 496, 501, 245 A.2d 137, 139 (1968)
- Kurczy v. St. Joseph Veterans Association, Inc., 713 A.2d 766, 770 (R.I. 1998)
- State v. Doctor, 690 A.2d 321, 329 (R.I. 1997)
- Marcotte v. Harrison, 443 A.2d 1225, 1232 (R.I. 1982)
- Bajakian v. Erinakes, 880 A.2d 843, 851 (R.I. 2005)
- Ruggieri v. Big G Supermarkets, Inc., 114 R.I. 211, 216, 330 A.2d 810, 812 (1975)
- International Depository, Inc. v. State, 603 A.2d 1119, 1123 (R.I. 1992)
- Candido v. University of Rhode Island, 880 A.2d 853, 857 (R.I. 2005)
- Pollard v. Hastings, 862 A.2d 770, 777 (R.I. 2004)
- Iselin v. Retirement Board of the Employees' Retirement System of Rhode Island, 943 A.2d 1045, 1051 (R.I. 2008)
- Tyre v. Swain, 946 A.2d 1189, 1200 (R.I. 2008)
- Mead v. Papa Razzi, 899 A.2d 437, 443-44 (R.I. 2006)
- Bourque v. Stop & Shop Companies, Inc., 814 A.2d 320, 325 (R.I. 2003)
- DiFranco v. Klein, 657 A.2d 145, 147 (R.I. 1995)
- Seddon v. Duke, 884 A.2d 413, 414 (R.I. 2005) (mem.)

- *Recco v. Criss Cadillac Co.*, 610 A.2d 542, 545 (R.I. 1992)

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