

SUPREME COURT OF SOUTH DAKOTA

Ridley v. Sioux Empire Pit Bull Rescue, Inc.

932 N.W.2d 576 (S.D. 2019) · Decided August 7, 2019

SUMMARY

Darlette Mae Ridley was injured when a pit bull owned by Sioux Empire Pit Bull Rescue, Inc. and temporarily cared for by Susan Tribble-Zacher and Harry Podhradsky escaped its tether and attacked her at a South Dakota campground. The South Dakota Supreme Court held that the attack was not foreseeable under the circumstances and affirmed summary judgment for the defendants. The court's majority opinion was accompanied by a special concurrence and a dissent.

CASE DETAILS

COURT	Supreme Court of South Dakota
WRITING FOR THE COURT	Chief Justice Gilbertson; Justice Jensen; Justice Salter; Justice Kern; Retired Justice Severson
JURISDICTION	South Dakota
DECIDED	August 7, 2019
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed from the circuit court's grants of separate motions for summary judgment in favor of the dog-rescue organization and the dog's temporary caregivers in a negligence action arising from an unprovoked dog attack.
STANDARD OF REVIEW	The court reviews summary judgment de novo to determine whether the moving party demonstrated the absence of any genuine issue of material fact and entitlement to judgment as a matter of law, viewing the evidence most favorably to the nonmoving party and resolving reasonable doubts against the moving party.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of South Dakota
PARTIES	Darlette Mae Ridley v. Sioux Empire Pit Bull Rescue, Inc., Susan Tribble-Zacher, Harry Podhradsky

TOPICS

[summary judgment](#)[standard of review](#)[negligence](#)[duty of care](#)[personal injury](#)

PRACTICE AREAS

torts

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the circuit court properly granted summary judgment when the evidence, viewed in Ridley's favor, did not establish a genuine issue of material fact regarding foreseeability or breach of the defendants' duty of reasonable care.
2. Whether Meadow's pit bull type breed, prior fight with another dog, temporary foster placement, failure to undergo a two-week shutdown period, or tethering at the campground made an attack on Ridley reasonably foreseeable.
3. Whether South Dakota law recognizes a breed-specific heightened standard of care for pit bull type dogs.

HOLDINGS

1. Summary judgment was proper because, even viewing the evidence in the light most favorable to Ridley, no genuine issue of material fact showed that the defendants could reasonably have foreseen Meadow's attack on a human or otherwise breached their duty of reasonable care.
2. South Dakota law does not impose a breed-specific heightened standard of care based solely on a dog's pit bull type breed or historical breeding for aggression toward other dogs.
3. The alleged failure to comply with SEPR's two-week shutdown policy did not create a genuine issue of material fact because the record did not connect that policy violation to a foreseeable attack on a human.

KEY QUOTATIONS

"In reviewing a grant or a denial of summary judgment under SDCL 15-6-56(c), we must determine whether the moving party demonstrated the absence of any genuine issue of material fact and showed entitlement to judgment on the merits as a matter of law." (932 N.W.2d at 577)

"Before a defendant can be held liable for negligence, the defendant must have breached a duty of care owed to the plaintiff." (932 N.W.2d at 578)

"The law in South Dakota does not support any such breed-specific standard of care." (932 N.W.2d at 582)

"Even when viewing the facts in a light most favorable to Ridley, there was no indication that it was foreseeable that Meadow would have attacked Ridley on the morning of August 9, 2015." (932 N.W.2d at 583)

FACTUAL BACKGROUND

On August 9, 2015, Darlette Mae Ridley was walking through Newton Hills State Park when Meadow, a pit bull type dog owned by Sioux Empire Pit Bull Rescue, Inc. and being temporarily cared for by Susan Tribble-Zacher and Harry Podhradsky, lunged at her. Meadow's collar broke while she was tethered to a tree, allowing her to reach Ridley, knock her down, and bite her. Ridley sustained cuts, a fractured finger requiring stitches, pain,

medical expenses, and lost wages. Meadow had previously fought with another dog, but the record contained no evidence that she had dangerous propensities toward humans or that the defendants should have anticipated the collar's failure or the attack.

PROCEDURAL HISTORY

Ridley sued Sioux Empire Pit Bull Rescue, Inc., Susan Tribble-Zacher, and Harry Podhradsky for injuries sustained when a dog in their care escaped its tether and attacked her. The defendants separately moved for summary judgment. After a hearing, the circuit court found no evidence of a lack of reasonable care and granted all three motions. The South Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- Nicolay v. Stukel, 2017 S.D. 45, 900 N.W.2d 71
- Gades v. Meyer Modernizing Co., 2015 S.D. 42, 865 N.W.2d 155
- Lindblom v. Sun Aviation, Inc., 2015 S.D. 20, 862 N.W.2d 549
- Englund v. Vital, 2013 S.D. 71, 838 N.W.2d 621
- Locke v. Gellhaus, 2010 S.D. 11, 778 N.W.2d 594
- Gehrts v. Batteen, 2001 S.D. 10, 620 N.W.2d 775
- Rowland v. Log Cabin, Inc., 2003 S.D. 20, 658 N.W.2d 76
- Tipton v. Town of Tabor, 1997 S.D. 96, 567 N.W.2d 351
- Robinson v. Ewalt, 2012 S.D. 1, 808 N.W.2d 123
- Gul v. Ctr. for Family Med., 2009 S.D. 12, 762 N.W.2d 629
- Hanson v. Big Stone Therapies, Inc., 2018 S.D. 60, 916 N.W.2d 151