

SUPREME COURT OF ALABAMA

Ex parte Wild Wild West Social Club, Inc.

806 So. 2d 1235 (Ala. 2001) · No. 1992380 · Decided June 22, 2001

SUMMARY

The Supreme Court of Alabama reversed a judgment affirming a jury verdict against Wild Wild West Social Club for injuries Morrison sustained after being ejected from the club and punched by a security guard. The court held that the injury was not legally foreseeable to the club and that Morrison presented insufficient evidence that the security guard was the club's agent or acted within the scope of any agency relationship. The court rendered judgment for Wild Wild West.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Lyons, Justice; Moore, C.J.; Houston, J.; See, J.; Brown, J.; Johnstone, J.; Harwood, J.; Woodall, J.; Stuart, J.; Lyons, J.
JURISDICTION	Alabama
DECIDED	June 22, 2001
DOCKET	1992380
DISPOSITION	reversed
PROCEDURAL POSTURE	Wild Wild West petitioned for certiorari review of a Court of Civil Appeals decision affirming a \$35,000 jury verdict and trial-court judgment in favor of Morrison.
STANDARD OF REVIEW	A ruling on a motion for judgment as a matter of law is reviewed under the same standard applied by the trial court. The evidence is viewed in the light most favorable to the nonmovant, with reasonable inferences drawn in the nonmovant's favor; the question is whether substantial evidence supports submission of the factual issue to the jury.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; precedential.
PARTIES	Wild Wild West Social Club, Inc. v. Stephen L. Morrison

TOPICS

- negligence
- proximate cause
- vicarious liability
- motion for directed verdict
- appellate procedure

PRACTICE AREAS

torts

negligence

vicarious liability

civil procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether substantial evidence supported a finding that Wild Wild West's conduct in ejecting Morrison proximately caused injuries inflicted by Graham, including whether the resulting violence was reasonably foreseeable.
2. Whether substantial evidence supported a finding that Graham was Wild Wild West's agent or employee and was acting within the line and scope of such an agency when he injured Morrison.

HOLDINGS

1. Wild Wild West could not be held directly negligent because Graham's attack on Morrison was not legally foreseeable under the evidence. The bare possibility that an ejected bar patron might be attacked by a security guard did not establish foreseeability or proximate cause.
2. Morrison failed to present substantial evidence that Graham was an agent or employee of Wild Wild West. The evidence did not show that Wild Wild West retained or exercised control over Graham's work, and Graham's alleged punch was not shown to have been committed within the line and scope of any agency.

KEY QUOTATIONS

"The concept of foreseeability, especially when relating to the criminal conduct of third parties, does not lend itself to a hard and fast rule; rather, its application depends upon the facts and circumstances of each case" (1240)

"The bare chance that an ejected bar patron might be attacked by a security guard is not sufficient to impose liability on the operator of the bar." (1241)

"Consequently, we must conclude that the jury had before it no evidence from which it could find that Graham was an agent of Wild Wild West." (1242)

FACTUAL BACKGROUND

Morrison was forcibly ejected from Wild Wild West's bar after a fight broke out near him. Outside, Metropolitan security guards, including owner Albert Dyess and guard James Graham, escorted Morrison toward a patrol car, and Graham later punched Morrison in the groin. Morrison suffered a ruptured testicle requiring emergency surgery, but the evidence showed no prior complaints about Graham, no known propensity for violence, and no prior similar incidents involving the security guards.

PROCEDURAL HISTORY

Morrison sued Wild Wild West, Metropolitan Patrol Service, Albert Dyess, and others for injuries sustained during an altercation outside Wild Wild West's bar. The case was submitted to the jury against Wild Wild West, Metropolitan, and Dyess, and the jury returned a \$35,000 verdict for Morrison. The trial court entered judgment

on the verdict, denied Wild Wild West's motions for judgment as a matter of law and for a new trial, and the Court of Civil Appeals affirmed. The Alabama Supreme Court granted certiorari and reversed.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered; the court rendered judgment for Wild Wild West.

CASES CITED

- Wild Wild West Social Club, Inc. v. Morrison, 806 So. 2d 1228 (Ala. Civ. App. 2000)
- Palm Harbor Homes, Inc. v. Crawford, 689 So. 2d 3 (Ala. 1997)
- Carter v. Henderson, 598 So. 2d 1350 (Ala. 1992)
- West v. Founders Life Assurance Co. of Florida, 547 So. 2d 870, 871 (Ala. 1989)
- Cloverleaf Plaza, Inc. v. Cooper & Co., 565 So. 2d 1147, 1149 (Ala. 1990)
- Daniels v. East Alabama Paving, Inc., 740 So. 2d 1033, 1037 (Ala. 1999)
- Rose v. Miller & Co., 432 So. 2d 1237, 1238 (Ala. 1983)
- Albert v. Hsu, 602 So. 2d 895, 897 (Ala. 1992)
- Ex parte Chevron Chemical Co., 720 So. 2d 922, 924 (Ala. 1998)
- Riverview Reg'l Med. Ctr., Inc. v. Williams, 667 So. 2d 46 (Ala. 1995)
- Liberty National Life Insurance Co. v. Weldon, 267 Ala. 171, 100 So. 2d 696, 710 (1957)
- Southern Ry. v. Carter, 164 Ala. 103, 51 So. 147 (1909)
- Gist v. Vulcan Oil Co., 640 So. 2d 940, 942 (Ala. 1994)
- Butler v. Aetna Fin. Co., 587 So. 2d 308 (Ala. 1991)
- Fuller v. Tractor & Equip. Co., 545 So. 2d 757 (Ala. 1989)
- Sakas v. Capital Concepts Corp., 565 So. 2d 237 (Ala. 1990)
- Merrell v. Joe Bullard Oldsmobile, Inc., 529 So. 2d 943 (Ala. 1988)
- Carlton v. Alabama Dairy Queen, Inc., 529 So. 2d 921 (Ala. 1988)
- Wood v. Shell Oil Co., 495 So. 2d 1034 (Ala. 1986)