

SUPREME COURT OF PENNSYLVANIA

Grove v. Port Authority of Allegheny County

218 A.3d 877 (Pa. 2019) · No. Nos. 31 WAP 2018 and 32 WAP 2018 · Decided October 31, 2019

SUMMARY

The Pennsylvania Supreme Court reviews whether the trial court committed reversible error by declining to instruct the jury on negligence per se and specified pedestrian-related Vehicle Code provisions. The Court holds that the Commonwealth Court did not identify a fundamental error or prejudicial omission warranting a new trial, where the jury found the plaintiff negligent and apportioned causal negligence equally between the parties. The decision addresses negligence per se, comparative negligence, factual cause, and harmless error in jury instructions.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Mundy; Chief Justice Saylor; Justice Baer; Justice Todd; Justice Donohue; Justice Dougherty; Justice Wecht
JURISDICTION	Pennsylvania
DECIDED	October 31, 2019
DOCKET	Nos. 31 WAP 2018 and 32 WAP 2018
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Port Authority appealed after the Allegheny County Court of Common Pleas denied its post-trial motion following a jury verdict for Grove. The Commonwealth Court reversed and ordered a new trial based on the trial court's failure to instruct the jury on negligence per se and relevant pedestrian provisions of the Vehicle Code. The Supreme Court of Pennsylvania granted allocatur and reviewed whether the instructional omission was prejudicial error.
STANDARD OF REVIEW	The Supreme Court reviewed the Commonwealth Court's grant of a new trial for abuse of discretion and legal error. Jury instructions are considered as a whole, and a new trial is warranted only for a fundamental error or prejudicial omission; harmless error requires a showing of prejudice.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Joan P. Grove v. Port Authority of Allegheny County

TOPICS

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QUESTIONS PRESENTED

1. Whether the trial court's failure to give a negligence per se instruction based on Vehicle Code provisions governing pedestrian duties and the overtaking of vehicles constituted prejudicial error.
2. Whether the absence of the negligence per se instruction could affect the jury's apportionment of factual cause or comparative negligence after the jury found Grove negligent.
3. Whether the Commonwealth Court abused its discretion or committed legal error by ordering a new trial based on the instructional omission.

HOLDINGS

1. The omission was harmless error because the jury found Grove negligent. A negligence per se instruction concerns duty and breach, and does not control the separate inquiries of factual cause or comparative-fault apportionment.
2. The Commonwealth Court erred by ordering a new trial without affirmatively finding a fundamental error or actual prejudice; speculation that the instructions could have influenced the jury was insufficient.

KEY QUOTATIONS

"A negligence per se charge only relates to the first two elements of negligence, duty and breach of that duty." (at 16)

"The standard is not that the omitted instructions could have influenced the jury. Prejudice is required." (at 18)

FACTUAL BACKGROUND

Joan Grove was walking across Montour Way in Pittsburgh while maneuvering around a car stopped in the crosswalk. A Port Authority bus traveling on Sixth Avenue moved around another stopped vehicle and struck Grove, driving over her right leg. Grove underwent multiple surgeries and ultimately had a below-the-knee amputation. The jury found both Grove and the Port Authority 50 percent negligent and awarded \$2,731,000, which was reduced by comparative negligence and the statutory cap applicable to the Port Authority.

PROCEDURAL HISTORY

Grove obtained a \$250,000 molded jury award in a personal injury negligence action against the Port Authority. The trial court denied the Port Authority's request for post-trial relief, while the Commonwealth Court reversed and remanded for a new trial; it dismissed Grove's cross-appeal concerning calculation of delay damages as

moot. The Supreme Court reversed the Commonwealth Court and remanded for disposition of Grove's cross-appeal.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The Commonwealth Court's order granting the Port Authority a new trial was reversed. The matter was remanded to the Commonwealth Court for disposition of Grove's cross-appeal concerning delay damages.

CASES CITED

- Soddors v. Fry, 32 A.3d 882 (Pa. Cmwlth. 2011)
- Allen v. Mellinger, 784 A.2d 762 (Pa. 2011)
- Grove v. Port Authority, 178 A.3d 239 (Pa. Cmwlth. 2018)
- Von der Heide v. Department of Transportation, 718 A.2d 286 (Pa. 1998)
- Commonwealth v. Lesko, 15 A.3d 345 (Pa. 2011)
- Stewart v. Motts, 654 A.2d 535 (Pa. 1995)
- Harman ex rel. Harman v. Borah, 756 A.2d 1116 (Pa. 2000)
- Commonwealth Department of Public Welfare v. Hickey, 582 A.2d 734 (Pa. Cmwlth. 1990)
- White by Stevens v. Southeastern Pennsylvania Transportation Authority, 518 A.2d 810 (Pa. Super. 1986)
- Gravlin v. Fredavid Builders and Developers, 677 A.2d 1235 (Pa. Super. Ct. 1996)
- Learn v. Vivian, 171 A.2d 783 (Pa. 1961)
- Bilt-Rite Contractors, Inc. v. The Architectural Studio, 866 A.2d 270 (Pa. 2005)
- Althaus ex rel. Althaus v. Cohen, 756 A.2d 1166 (Pa. 2000)
- Commonwealth v. Hairston, 84 A.3d 657 (Pa. 2014)