

SUPREME COURT OF VERMONT

Martin ex rel. Martin v. Christman

196 Vt. 536 (2014) · No. 2013-250 · Decided June 13, 2014

SUMMARY

The Vermont Supreme Court affirmed dismissal of a strict-liability claim arising from a dog-bite injury to a child. The court held that Vermont common law requires proof of the dog owner's negligence and declined to judicially adopt strict liability for dog bites, concluding that any change should be made by the Legislature.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Crawford, J.; Reiber, C.J.; Dooley, J.; Skoglund, J.; Robinson, J.
JURISDICTION	Vermont
DECIDED	June 13, 2014
DOCKET	2013-250
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed the dismissal of their strict-liability claim arising from a dog bite. The Vermont Supreme Court reviewed the trial court's dismissal on a motion to dismiss.
STANDARD OF REVIEW	The court reviewed the decision on the motion to dismiss de novo, assumed the pleaded facts were true, and applied the rule that dismissal is improper unless it is beyond doubt that no facts or circumstances would entitle the plaintiff to relief.
PRECEDENTIAL VALUE	Published Vermont Supreme Court opinion; precedential.
PARTIES	Michaela Martin, David Martin, as next best friends of Gracie Martin v. John W. Christman, Joanna L. Christman

TOPICS

- strict liability
- personal injury
- negligence
- appellate procedure
- standard of review

PRACTICE AREAS

- Torts
- Appellate Procedure

QUESTIONS PRESENTED

1. Whether Vermont should abandon its common-law rule requiring proof of a dog owner's negligence as the basis for liability for personal injuries inflicted by the dog.
2. Whether the trial court properly dismissed the Martins' strict-liability claim under existing Vermont precedent.

HOLDINGS

1. Vermont retains the common-law rule that liability for injuries caused by a dog requires proof of the owner's negligence; the court declined to create a strict-liability rule by judicial decision.
2. The trial court properly dismissed the strict-liability claim because Vermont law did not recognize liability against dog owners based solely on the dog's attack.

KEY QUOTATIONS

“In the face of longstanding precedent, both in Vermont and in the United States in general, we decline to change the substantive law by judicial decision.” (¶ 1)

“We are not prepared, however, to depart from long-held principles of negligence to create a new field of strict liability.” (¶ 16)

“A motion to dismiss for failure to state a claim upon which relief may be granted should be denied “unless it is beyond doubt that there exist no facts or circumstances that would entitle the plaintiff to relief.”” (¶ 6)

FACTUAL BACKGROUND

Three-year-old Gracie Martin was at a campground in Island Pond, Vermont, where the Christmans were camping with their boxer dogs. With permission from John Christman, Gracie approached and attempted to pet Diesel, a two-year-old male boxer tied to a gazebo pole. Without warning, Diesel knocked Gracie down and bit her face, requiring hospital surgery.

PROCEDURAL HISTORY

The Martins sued the Christmans, their insurer, and the campground on theories including strict liability, negligence, and premises liability after the Christmans' dog attacked Gracie Martin. The trial court dismissed the strict-liability claim based on Vermont precedent requiring proof of owner negligence, dismissed a direct-action claim against the insurer, and, following stipulation, dismissed the negligence and premises-liability claims with prejudice. The appeal was limited to dismissal of the strict-liability claim.

DISPOSITION

affirmed

CASES CITED

- Bock v. Gold, 2008 VT 81, 184 Vt. 575, 959 A.2d 990 (mem.)

- *Assoc. of Haystack Prop. Owners, Inc. v. Sprague*, 145 Vt. 443, 494 A.2d 122 (1985)
- *Richards v. Town of Norwich*, 169 Vt. 44, 726 A.2d 81 (1999)
- *Godeau v. Blood*, 52 Vt. 251 (1880)
- *Hillier v. Noble*, 142 Vt. 552, 458 A.2d 1101 (1983)
- *Carr v. Case*, 135 Vt. 524, 380 A.2d 91 (1977)
- *Davis v. Bedell*, 123 Vt. 441, 194 A.2d 67 (1963)
- *Worthen v. Love*, 60 Vt. 285, 14 A. 461 (1888)
- *Scheele v. Dustin*, 2010 VT 45, 188 Vt. 36, 998 A.2d 697
- *State v. LeBlanc*, 149 Vt. 141, 540 A.2d 1037 (1987)
- *Goodby v. Vetpharm, Inc.*, 2009 VT 52, 186 Vt. 63, 974 A.2d 1269
- *Hossenlopp v. Cannon*, 329 S.E.2d 438 (S.C. 1985)
- *Borns ex rel. Gannon v. Voss*, 2003 WY 74, 70 P.3d 262
- *Gehrts v. Batteen*, 2001 SD 10, 620 N.W.2d 775
- *Harris v. Anderson County Sheriff's Office*, 673 S.E.2d 423 (S.C. 2009)

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