

OHIO COURT OF APPEALS, FIFTH APPELLATE DISTRICT, LICKING
COUNTY

Hollingshead v. Utility Solutions of Ohio, Inc.

2021-Ohio-3151 (Ohio Ct. App. 2021) · No. 2020 CA 0081 · Decided September 13, 2021

SUMMARY

The Ohio Fifth District Court of Appeals affirmed summary judgment for Utility Solutions of Ohio, Inc. and its employees in a negligence action arising from a vehicle collision with a utility truck stopped in the plaintiff's lane of travel. The court held that the plaintiff violated Ohio's assured-clear-distance statute and failed to establish genuine issues of material fact concerning the vehicle's discernibility, the defendants' alleged negligence, or proximate cause. The court also upheld the trial court's decision to strike portions of the plaintiff's affidavit, a crash report, and training materials.

CASE DETAILS

COURT	Ohio Court of Appeals, Fifth Appellate District, Licking County
WRITING FOR THE COURT	Craig R. Baldwin, P.J.; William B. Hoffman, J.; John W. Wise, J.
JURISDICTION	Ohio
DECIDED	September 13, 2021
DOCKET	2020 CA 0081
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiff appealed the trial court's order granting defendants' motion to strike and motion for summary judgment in an automobile-negligence action.
STANDARD OF REVIEW	The appellate court reviewed the summary-judgment decision de novo, standing in the shoes of the trial court and applying the same standard and evidence. The trial court's ruling on the motion to strike an affidavit was reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Bailee Hollingshead v. Utility Solutions of Ohio, Inc., William Myers, Andrew Norris

TOPICS

summary judgment

negligence

proximate cause

evidence

appellate procedure

PRACTICE AREAS

negligence

motor vehicle torts

civil procedure

evidence

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion by striking portions of Hollingshead's affidavit that contradicted her deposition testimony.
2. Whether the trial court properly struck the Ohio State Highway Patrol crash report and Utility Solutions training materials because the supporting affidavit lacked personal knowledge and authentication.
3. Whether summary judgment was proper on the claim that defendants' vehicle was not reasonably discernible under Ohio's assured-clear-distance-ahead statute.
4. Whether the evidence created a genuine issue of material fact concerning defendants' alleged violation of R.C. 4511.66 and negligence.
5. Whether any alleged negligence by defendants was a proximate cause of the collision.

HOLDINGS

1. The trial court did not abuse its discretion by striking paragraphs 9, 10, 11, 12, 14, 15, and 16 of Hollingshead's affidavit because those statements addressed events after the point at which she testified that she no longer remembered what occurred.
2. The trial court properly struck the Ohio State Highway Patrol crash report and Utility Solutions training materials because counsel's affidavit did not establish personal knowledge or sufficient evidentiary foundation for the documents.
3. Summary judgment for defendants was proper because the evidence established that Hollingshead collided with a stationary object ahead in her path that did not suddenly appear and was reasonably discernible; reasonable minds could only conclude that she violated R.C. 4511.21(A).
4. Hollingshead failed to produce evidence creating a genuine issue of material fact concerning whether R.C. 4511.66 applied, whether defendants negligently violated it, or whether any such negligence proximately caused the collision.

KEY QUOTATIONS

“Ohio case law has consistently held that a person violates the assured clear distance ahead statute if ‘there is evidence that the driver collided with an object which (1) was ahead of him in his path of travel, (2) was stationary or moving in the same direction as the driver, (3) did not suddenly appear in the driver's path, and (4) was reasonably discernible.’” (¶ 40)

“The driver of an automobile has a duty to “stop his machine whenever he is so blinded as to be unable to see the way in front of him.”” (¶ 41)

“R.C. 4511.66(A) “is a highway safety statute” which “does not provide for an absolute prohibition against stopping, parking, or leaving a vehicle standing on the traveled portion of a highway.”” (¶ 57)

FACTUAL BACKGROUND

On September 18, 2015, Bailee Hollingshead was driving eastbound on County Road 34 in Licking County when she encountered sunlight and reached for her sunglasses and sun visor. She then collided with a utility truck and trailer stopped in her lane while Utility Solutions employees unloaded equipment for roadway work. The employees stated that warning signs, cones, and vehicle lights had been placed before the collision. The majority concluded that Hollingshead lacked a genuine factual dispute concerning the vehicle's reasonable discernibility and the defendants' negligence.

PROCEDURAL HISTORY

Hollingshead filed a negligence complaint in the Licking County Court of Common Pleas concerning a collision with defendants' stopped utility vehicle. Defendants moved for summary judgment and moved to strike portions of Hollingshead's affidavit and attached documents. The trial court granted both motions, and Hollingshead appealed. The Fifth District affirmed.

DISPOSITION

affirmed

CASES CITED

- Bosky Group, LLC v. Columbus & Ohio River RR. Co., 2017-Ohio-8292, ¶ 42
- Blakemore v. Blakemore, 5 Ohio St. 3d 217, 450 N.E.2d 1140 (1983)
- White v. Toledo, 2015-Ohio-3667, ¶ 11
- Bryd v. Smith, 110 Ohio St. 3d 24, 850 N.E.2d 47, 2006-Ohio-3455, ¶¶ 22, 26
- Johnston v. Cochran, 2007-Ohio-4408, ¶ 18
- Cincinnati Ins. Co. v. Thompson & Ward Leasing Co., 158 Ohio App. 3d 369, 374, 2004-Ohio-3972, ¶ 13
- Pond v. Carey Corp., 34 Ohio App. 3d 109, 111 (1986)
- Dresher v. Burt, 75 Ohio St. 3d 280, 292, 662 N.E.2d 264, 1996-Ohio-107
- Mitseff v. Wheeler, 38 Ohio St. 3d 112, 115, 526 N.E.2d 798, 801 (1988)
- Vahila v. Hall, 77 Ohio St. 3d 421, 429, 674 N.E.2d 1164, 1997-Ohio-259
- Smiddy v. The Wedding Party, Inc., 30 Ohio St. 3d 35, 506 N.E.2d 212 (1987)
- Pond v. Leslein, 72 Ohio St. 3d 50, 52, 647 N.E.2d 477, 1995-Ohio-193
- Blair v. Goff-Kirby Co., 49 Ohio St. 2d 5, 7, 358 N.E.2d 634 (1976)
- Pleimann v. Coots, 2003-Ohio-316, ¶¶ 15, 17
- Parnell v. Bell, 117 Ohio App. 125, 129-130, 191 N.E.2d 220 (1st Dist. 1962)