

SUPREME COURT OF THE STATE OF KANSAS

Manley v. Hallbauer

423 P.3d 480 (Kan. 2018) · No. No. 115,531 · Decided August 10, 2018

SUMMARY

The Kansas Supreme Court held that a landowner whose property abuts a rural intersection owes no common-law duty to passing drivers to trim or remove naturally occurring trees or vegetation that obstruct visibility. The court relied on Kansas precedent and public-policy considerations, affirmed summary judgment for the landowners, and affirmed the Court of Appeals.

CASE DETAILS

COURT	Supreme Court of the State of Kansas
WRITING FOR THE COURT	Luckert, J.; Michael J. Malone, Senior Judge, assigned
JURISDICTION	Kansas
DECIDED	August 10, 2018
DOCKET	No. 115,531
DISPOSITION	affirmed
PROCEDURAL POSTURE	Plaintiffs appealed from summary judgment for the defendant landowners in a wrongful-death negligence action. The Kansas Supreme Court granted review of the Court of Appeals decision affirming the district court.
STANDARD OF REVIEW	Summary judgment is reviewed under the same standard applied by the district court. Summary judgment is appropriate when the record shows no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The existence of a legal duty is a question of law reviewed de novo.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Lori Leann Manley, individually and as special administrator for the Estate of Darren R. Manley, deceased, Amanda Tubbs, Derrick Manley v. Steven B. Hallbauer, Kathie M. Hallbauer

TOPICS

[duty of care](#) [premises liability](#) [negligence](#) [standard of review](#) [appellate procedure](#)

PRACTICE AREAS

torts

negligence

premises liability

appellate procedure

real estate

QUESTIONS PRESENTED

1. Whether Kansas law imposes a common-law duty on a rural landowner whose property abuts an intersection to trim or remove naturally occurring trees and vegetation that obstruct passing drivers' views.
2. Whether the Hallbauers were entitled to summary judgment because they owed no duty of care under the circumstances.
3. Whether Kansas should adopt the Restatement (Third) of Torts approach imposing a duty for known or obvious risks created by natural conditions on land.

HOLDINGS

1. A landowner whose property abuts a rural intersection owes no duty to passing drivers to trim or remove trees or other vegetation on the property when the vegetation is a natural condition located entirely on the land.
2. Summary judgment for the Hallbauers was proper because the absence of a legal duty resolved the negligence claim as a matter of law.
3. The court declined to adopt the Restatement (Third) approach for the circumstances presented and adhered to Kansas precedent embodying the traditional no-duty rule.

KEY QUOTATIONS

“We conclude the traditional rule embraced in Goodaile finds support in public policy. We, thus, hold a landowner whose property abuts a rural intersection owes no duty to passing drivers to trim or remove trees or other vegetation on the property.” (at 14)

“To find a legal duty to support a negligence claim, (1) the plaintiff must be a foreseeable plaintiff and (2) the probability of harm must be foreseeable.” (at 5)

“This court may choose not to recognize a duty if the duty is contrary to public policy.” (at 5)

FACTUAL BACKGROUND

Darren Manley died when his truck collided with another truck at an unsigned intersection of two gravel roads in rural Labette County. Trees and underbrush on the Hallbauers' property obstructed drivers' views of the intersection, creating a blind spot. The Hallbauers had owned the property for approximately five years, and the natural growth remained largely unchanged during their ownership, although they had cleared some trees. Plaintiffs alleged that the vegetation contributed to the collision by obstructing visibility.

PROCEDURAL HISTORY

The estate and heirs sued the Hallbauers, Labette County, and John Patton after Darren Manley died in a collision at a rural intersection. Plaintiffs settled with Patton and Labette County. The district court granted the

Hallbauers summary judgment and certified the judgment as final under K.S.A. 2017 Supp. 60-254(b). The Court of Appeals affirmed, and the Kansas Supreme Court granted review and affirmed both lower-court judgments.

DISPOSITION

affirmed

CASES CITED

- Manley v. Hallbauer, 53 Kan. App. 2d 297, 387 P.3d 185 (2016)
- Bank v. Parish, 298 Kan. 755, 317 P.3d 750 (2014)
- Drouhard-Nordhus v. Rosenquist, 301 Kan. 618, 345 P.3d 281 (2015)
- Apodaca v. Willmore, 306 Kan. 103, 392 P.3d 529 (2017)
- Berry v. National Medical Services, Inc., 292 Kan. 917, 257 P.3d 287 (2011)
- Patterson v. Cowley County, Kansas, 307 Kan. 616, 413 P.3d 432 (2018)
- Fieser v. Kansas Board of Healing Arts, 281 Kan. 268, 130 P.3d 555 (2006)
- Wozniak v. Lipoff, 242 Kan. 583, 750 P.2d 971 (1988)
- Goodaile v. Cowley County, 111 Kan. 542, 207 P. 785 (1922)
- Bohm v. Racette, 118 Kan. 670, 236 P. 811 (1925)
- Toumberlin v. Haas, 236 Kan. 138, 689 P.2d 808 (1984)
- Finkbiner v. Clay County, 238 Kan. 856, 714 P.2d 1380 (1986)
- Crist v. Hunan Palace, Inc., 277 Kan. 706, 89 P.3d 573 (2004)
- Samsel v. Wheeler Transport Services, Inc., 246 Kan. 336, 789 P.2d 541 (1990)
- Williams v. Davis, 974 So. 2d 1052 (Fla. 2007)