

SUPREME JUDICIAL COURT OF MAINE

Parrish v. Wright, 2003 ME 90

828 A.2d 778 (Me. 2003) · Decided July 17, 2003

SUMMARY

The Maine Supreme Judicial Court affirmed summary judgment for homeowners whose adult daughter's dog injured the plaintiff while the homeowners were away. The court held that the homeowners were not keepers or possessors of the dog, lacked evidence of knowledge of its dangerous propensities, and had no established duty to require the daughter to leash or train the dog.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Alexander, J.; Saufley, C.J.; Clifford, J.; Rudman, J.; Dana, J.; Calkins, J.
JURISDICTION	Maine
DECIDED	July 17, 2003
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a summary judgment entered for Charles and Edith Wright in an action arising from injuries Parrish sustained when he fell during a dog fight and was bitten. The Superior Court dismissed the claims against the Wrights; Parrish appealed.
STANDARD OF REVIEW	Summary judgment is reviewed de novo, viewing the evidence in the light most favorable to the party against whom judgment was entered and determining whether the statements of material facts and referenced record evidence reveal a genuine issue of material fact. Whether a duty exists is a question of law reviewed de novo.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine
PARTIES	James Parrish v. Charles Wright, Edith Wright

TOPICS

- negligence
- strict liability
- summary judgment
- standard of review
- personal injury

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Charles and Edith Wright were keepers of Augustus within the meaning of 7 M.R.S.A. § 3961.
2. Whether a genuine issue of material fact existed regarding the Wrights' common-law strict liability for possessing or harboring a dog with dangerous propensities.
3. Whether the Wrights owed Parrish a common-law duty to require their daughter to keep Augustus leashed, train the dog, or warn Parrish about the dog's dangerous propensity or whereabouts.

HOLDINGS

1. The Wrights were not keepers of Augustus because they lacked care, custody, and control of the dog and were not present in Maine when the incident occurred.
2. The Wrights were not subject to common-law strict liability because they were not possessors of Augustus at the time of the incident.
3. The Wrights did not owe Parrish a duty to require their daughter to leash or train Augustus or to warn about the dog because Maine law had not established such a duty for a property owner who was not present and who lacked knowledge of the dog's dangerous propensity.

KEY QUOTATIONS

“Applying the definition of “keeper” stated in McCosker, the Wrights were not the keepers of Augustus because they did not have “care, custody and control” of him.” (at 781)

“Whether a duty exists is a question of law that we review de novo.” (at 783)

“Accordingly, the Superior Court properly granted summary judgment on Parrish's negligence claim.” (at 784)

FACTUAL BACKGROUND

Charles and Edith Wright owned a summer home on Little Cranberry Island but lived in Georgia during the incident. Their adult daughter, Marnie, lived separately, had permission to use the home, and occasionally brought her dog, Augustus, to the property; the Wrights imposed no rules regarding the dog. While the Wrights were in Georgia, Augustus left the property and became involved in a fight with Parrish's dog, during which Parrish fell and was bitten. The Wrights had no prior knowledge that Augustus had bitten a person or animal or had dangerous propensities.

PROCEDURAL HISTORY

Parrish filed a three-count complaint against Marnie Wright and Charles and Edith Wright, asserting statutory liability under 7 M.R.S.A. § 3961, common-law strict liability for damage done by animals, and common-law negligence. The Superior Court granted the Wrights' motion for summary judgment. Parrish later moved to dismiss Marnie Wright, the court granted that motion, and Parrish appealed the judgment in favor of the Wrights.

DISPOSITION

affirmed

CASES CITED

- Rogers v. Jackson, 2002 ME 140, ¶ 5, 804 A.2d 379, 380
- Bay View Bank v. Highland Golf Mortgagees Realty Trust, 2002 ME 178, ¶ 9, 814 A.2d 449, 452
- McCosker v. Weatherbee, 100 Me. 25, 59 A. 1019 (1905)
- Mitchell v. Chase, 87 Me. 172, 32 A. 867 (1895)
- Lewis v. Penney, 632 A.2d 439 (Me. 1993)
- Young v. Proctor, 495 A.2d 828, 830 (Me. 1985)
- Henry v. Brown, 495 A.2d 324, 327 (Me. 1985)
- Champagne v. Mid-Maine Med. Ctr., 1998 ME 87, ¶ 9, 711 A.2d 842, 845
- Mastriano v. Blyer, 2001 ME 134, ¶¶ 11-12, 779 A.2d 951, 954
- Stewart v. Aldrich, 2002 ME 16, ¶¶ 11-17, 788 A.2d 603, 607-08
- Grover v. Boise Cascade Corp., 2003 ME 45, ¶¶ 6-9, 819 A.2d 322, 323
- Bangor & Aroostook R.R. Co. v. Ship Fernview, 455 F. Supp. 1043, 1057-58 (D. Me. 1978)