

SUPREME COURT OF COLORADO

Fleury v. Intrawest Winter Park Operations Corp.

372 P.3d 349 (Colo. 2016) · No. 2016 CO 41 · Decided May 31, 2016

SUMMARY

The Colorado Supreme Court held that an in-bounds avalanche qualifies as an inherent danger and risk of skiing under Colorado's Ski Safety Act. The court concluded that the statutory phrase "snow conditions as they exist or may change" encompasses avalanches and therefore bars claims against ski area operators for injuries resulting from such avalanches. The court affirmed dismissal of the plaintiff's negligence and wrongful death action.

CASE DETAILS

COURT	Supreme Court of Colorado
WRITING FOR THE COURT	Justice Eid
JURISDICTION	Colorado
DECIDED	May 31, 2016
DOCKET	2016 CO 41
DISPOSITION	affirmed
PROCEDURAL POSTURE	Petitioner appealed after the trial court dismissed her negligence and wrongful-death action under the Colorado Ski Safety Act. The Colorado Court of Appeals affirmed in a split decision, and the Colorado Supreme Court granted certiorari.
STANDARD OF REVIEW	De novo review of the statutory-interpretation question.
PRECEDENTIAL VALUE	Published Colorado Supreme Court opinion; precedential
PARTIES	Salynda E. Fleury v. Intrawest Winter Park Operations Corporation

TOPICS

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QUESTIONS PRESENTED

1. Whether an avalanche occurring within the bounds of a ski resort qualifies as an "inherent danger[] and risk[] of skiing" under the Colorado Ski Safety Act and therefore falls within the Act's immunity provision.

HOLDINGS

1. An in-bounds avalanche qualifies as an inherent danger and risk of skiing because it is encompassed by the statutory phrase "snow conditions as they exist or may change." The Ski Safety Act therefore precludes a skier's claim against a ski-area operator for injuries resulting from an in-bounds avalanche.

KEY QUOTATIONS

"Because an avalanche is, at its essence, the movement of snow, and is therefore a way in which snow conditions may change, we hold that section 38-44-108(8.5) covers in-bounds avalanches." (352)

"It follows that section 88-44-112 precludes skiers from suing operators to recover for injuries resulting from in-bounds avalanches." (352)

FACTUAL BACKGROUND

Christopher H. Norris was killed in an avalanche while skiing on the Trestle Trees run within Winter Park Resort. Before the accident, the Colorado Avalanche Information Center had issued an avalanche warning, and the existing snow base on the run was weak and unstable. Winter Park allegedly knew of the warnings and the run's susceptibility to avalanches but neither closed the run nor posted warnings.

PROCEDURAL HISTORY

After Christopher Norris was killed in an in-bounds avalanche at Winter Park Resort, Salynda Fleury sued Winter Park for negligence and wrongful death. Winter Park moved for a determination of law under C.R.C.P. 56(h) and for judgment on the pleadings under C.R.C.P. 12(c), arguing that the Ski Safety Act barred the action. The trial court dismissed the complaint with prejudice, the court of appeals affirmed, and the Colorado Supreme Court affirmed the court of appeals.

DISPOSITION

affirmed

CASES CITED

- Melat, Pressman & Higbie, L.L.P. v. Hannon Law Firm, L.L.C., 2012 CO 61, 287 P.3d 842
- Abts v. Board of Education, 622 P.2d 518 (Colo. 1980)
- Fleury v. Intrawest Winter Park Operations Corp., 2014 COA 13
- Hunsaker v. People, 2015 CO 46, 351 P.3d 388
- Stamp v. Vail Corp., 172 P.3d 437 (Colo. 2007)
- Ryals v. St. Mary-Corwin Regional Medical Center, 10 P.3d 654 (Colo. 2000)

