

SUPREME COURT OF TEXAS

The Kroger Co. v. Elwood

197 S.W.3d 793 (Tex. 2006) · No. No. 04-1133 · Decided May 12, 2006

SUMMARY

The Texas Supreme Court held that Kroger did not owe its employee a duty to warn him not to place his hand in a vehicle doorjamb or to provide additional equipment or assistance for loading groceries on a sloped parking lot. The court reversed the court of appeals and rendered judgment for Kroger, concluding that the evidence did not establish breach of a duty or an unusually dangerous job condition.

CASE DETAILS

COURT	Supreme Court of Texas
JURISDICTION	Texas
DECIDED	May 12, 2006
DOCKET	No. 04-1133
DISPOSITION	reversed
PROCEDURAL POSTURE	Kroger petitioned the Supreme Court of Texas for review of a court of appeals judgment affirming a jury verdict imposing negligence liability on Kroger for Elwood's workplace injuries.
STANDARD OF REVIEW	The existence of a duty is a question of law. The Supreme Court reviewed Kroger's no-evidence challenge to the jury's negligence verdict and determined that the evidence did not establish a duty, breach, or proximate causation sufficient to impose liability.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	The Kroger Co. v. Billy Elwood

TOPICS

- negligence
- duty of care
- standard of care
- workers compensation
- appellate procedure

PRACTICE AREAS

- negligence
- employment law
- workers compensation
- appellate procedure

QUESTIONS PRESENTED

1. Whether Kroger owed Elwood a duty to warn him not to place his hand in a vehicle's doorjamb or to provide additional training, equipment, or assistance for loading groceries on the sloped parking lot.
2. Whether legally and factually sufficient evidence supported the jury's finding that Kroger's negligence proximately caused Elwood's injuries.

HOLDINGS

1. Kroger had no duty to warn Elwood not to place his hand in the vehicle's doorjamb because the danger was commonly known and already appreciated by Elwood.
2. Kroger had no duty to provide wheel locks, wheel blocks, additional personnel, or specialized training because Elwood offered no evidence that such equipment, assistance, or training was necessary to perform the job safely.
3. The evidence was legally insufficient to support a negligence judgment against Kroger because it did not establish a duty to warn or provide additional training, equipment, or assistance.

KEY QUOTATIONS

“Because Kroger had no duty to warn Elwood not to place his hand in a doorjamb, and there is no evidence that additional equipment or assistance were needed to perform Elwood's job safely, we reverse and render judgment for Kroger.” (794)

“Kroger had no duty to warn Elwood of a danger known to all and no obligation to provide training or equipment to dissuade an employee from using a vehicle door-jamb for leverage.” (795)

FACTUAL BACKGROUND

Billy Elwood, a courtesy clerk at a Kroger grocery store, was injured when a customer shut a vehicle door on his hand while he transferred groceries from a cart to the vehicle. To keep the cart from rolling down a slope in Kroger's parking lot, Elwood placed one hand in the vehicle's doorjamb and one foot on the cart. Elwood alleged that Kroger provided inadequate training and assistance and failed to provide carts with locking wheels or wheel blocks, but he acknowledged that he already knew it was dangerous to place his hand in a vehicle's doorjamb.

PROCEDURAL HISTORY

A jury found Kroger liable and found Elwood forty percent negligent. The trial court reduced Elwood's judgment accordingly. The court of appeals affirmed the verdict, then reformed the judgment to award Elwood one hundred percent of the damages because a nonsubscriber employer was not entitled to a contributory-negligence instruction. The Supreme Court of Texas reversed and rendered judgment for Kroger without hearing oral argument.

DISPOSITION

reversed

REMAND INSTRUCTIONS

No remand was ordered. The court reversed the court of appeals' judgment and rendered judgment for Kroger.

CASES CITED

- Werner v. Colwell, 909 S.W.2d 866 (Tex. 1995)
- El Chico Corp. v. Poole, 732 S.W.2d 306 (Tex. 1987)
- Van Horn v. Chambers, 970 S.W.2d 542 (Tex. 1998)
- Farley v. M M Cattle Co., 529 S.W.2d 751 (Tex. 1975)
- Leitch v. Hornsby, 935 S.W.2d 114 (Tex. 1996)
- Exxon Corp. v. Tidwell, 867 S.W.2d 19 (Tex. 1993)
- Nat'l Convenience Stores, Inc. v. Matherne, 987 S.W.2d 145 (Tex. App.—Houston [14th Dist.] 1999, no pet.)
- Allsup's Convenience Stores, Inc. v. Warren, 934 S.W.2d 433 (Tex. App.—Amarillo 1996, writ denied)
- Great Atl. & Pac. Tea Co. v. Evans, 142 Tex. 1, 175 S.W.2d 249 (1943)
- Kroger Co. v. Keng, 23 S.W.3d 347 (Tex. 2000)

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