

COURT OF APPEALS OF OHIO, TWELFTH DISTRICT, BUTLER COUNTY

Wilder v. Hicks

2025-Ohio-5275 · No. CA2025-05-052 · Decided November 24, 2025

SUMMARY

The Twelfth District Court of Appeals of Ohio affirmed summary judgment for landlord Donald Jones in Candice Wilder’s claims arising from a 2014 dog bite. The court held that Jones was not a harbinger under Ohio’s statutory dog-bite law because the tenant had sole possession and control of the single-family residence and its yard, and it rejected Wilder’s common-law negligence claim on the same harbinger issue. The court also addressed the limitations on unauthenticated photographs and other nonconforming evidence under Ohio Civ.R. 56.

CASE DETAILS

COURT	Court of Appeals of Ohio, Twelfth District, Butler County
WRITING FOR THE COURT	Robert A. Hendrickson; Robin N. Piper; Melena S. Siebert
JURISDICTION	Court of Appeals of Ohio, Twelfth District, Butler County
DECIDED	November 24, 2025
DOCKET	CA2025-05-052
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from an amended decision granting Donald Jones summary judgment on common-law negligence and statutory dog-bite claims under Ohio Revised Code section 955.28(B).
STANDARD OF REVIEW	Summary judgment is reviewed de novo. The reviewing court applies the same standard as the trial court and determines whether there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	Published Ohio Court of Appeals opinion
PARTIES	Candice Wilder v. Eric Hicks, et al.

TOPICS

- summary judgment
- negligence
- strict liability
- premises liability
- standard of review

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the trial court erred in granting Jones summary judgment on Wilder's common-law negligence claim.
2. Whether the trial court erred in granting Jones summary judgment on Wilder's statutory dog-bite claim under R.C. 955.28(B).
3. Whether the record contained a genuine issue of material fact as to whether Jones was a harbinger of the dog because the attack allegedly occurred in a common area.
4. Whether photographs submitted by Wilder but not authenticated or attached to an affidavit could be considered as Civ.R. 56 evidence.

HOLDINGS

1. Photographs that were not filed with the depositions, authenticated, or attached to an affidavit were not proper Civ.R. 56 evidence, and the appellate court would not consider them where the trial court did not reference or indicate that it had considered them.
2. A landlord is not a harbinger of a tenant's dog when the tenant has sole possession and control of the leased premises, including the yard of a single-family residence, and the landlord retains only the routine rights and responsibilities associated with a landlord-tenant relationship.
3. Jones was entitled to summary judgment on Wilder's statutory dog-bite claim because the undisputed evidence established that he was not the owner, keeper, or harbinger of the dog.
4. Jones was entitled to summary judgment on Wilder's common-law negligence claim because Wilder could not establish that Jones owned or harbored the dog.

KEY QUOTATIONS

“With respect to landlord-tenant relationships, it is well-established that a lease transfers both possession and control of the leased premises to the tenant.” (¶ 25)

“As the yard of a single-family home is considered to be part of the premises that the tenant has sole possession and control over, and the evidence presented on summary judgment establishes that the dog bite occurred in the front yard of 1901 Shuler, a single-family home, Jones cannot be liable as a “harbinger” of the dog under R.C. 955.28(B).” (¶ 31)

FACTUAL BACKGROUND

Candice Wilder was injured by a pit bull owned by the tenants of 1901 Shuler Avenue, a single-family home owned by Donald Jones and his deceased wife, Rita. The dog was kept by the tenants and attacked Wilder in the front yard near a tree while restrained on a tie-out. The evidence established that the tenants had sole possession and control of the rented property, while the landlords performed only routine landlord-tenant functions. Wilder offered no proper summary-judgment evidence showing that the attack occurred in a shared parking area controlled by the landlords.

PROCEDURAL HISTORY

Wilder sued the property owners and tenants after suffering injuries from a dog bite at a rented single-family residence. The trial court granted Jones summary judgment on both claims. An initial appeal was dismissed for lack of a final appealable order; after Wilder voluntarily dismissed her claims against Hicks and Pickron, the trial court entered an amended decision containing Civ.R. 54(B) language. Wilder timely appealed, and the Court of Appeals affirmed.

DISPOSITION

affirmed

CASES CITED

- French v. New Paris, 2011-Ohio-1309, ¶¶ 11, 12, 17 (12th Dist.)
- Grafton v. Ohio Edison Co., 77 Ohio St.3d 102, 105 (1996)
- Morris v. Dobbins Nursing Home, 2011-Ohio-3014, ¶ 14 (12th Dist.)
- Spitzer v. Frisch's Restaurants, Inc., 2021-Ohio-1913, ¶ 6 (12th Dist.)
- BAC Home Loans Servicing, L.P. v. Kolenich, 2011-Ohio-3345, ¶ 17 (12th Dist.)
- Hillstreet Fund III, L.P. v. Bloom, 2010-Ohio-2961, ¶ 9 (12th Dist.)
- Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)
- Touhey v. Ed's Tree & Turf, LLC, 2011-Ohio-3432, ¶ 7 (12th Dist.)
- Dresher v. Burt, 75 Ohio St.3d 280, 292-293 (1996)
- Oliphant v. AWP, Inc., 2020-Ohio-229, ¶ 31
- Deutsche Bank Natl. Trust Co. v. Sexton, 2010-Ohio-4802, ¶ 7 (12th Dist.)
- Taylor v. Atrium Med. Ctr., 2019-Ohio-447, ¶ 10
- State ex rel. Varnau v. Wenninger, 2011-Ohio-3904, ¶ 7 (12th Dist.)
- Spier v. American Univ. of the Caribbean, 3 Ohio App.3d 28, 29 (1st Dist. 1981)
- Wilson v. AIG, 2008-Ohio-5211, ¶ 29 (12th Dist.)
- Fontain v. H&R Cincy Properties, L.L.C., 2022-Ohio-1000, ¶ 66 n.7 (12th Dist.)
- U.S. Bank Natl. Assn. v. Crow, 2016-Ohio-5391, ¶ 18 (7th Dist.)
- Auto Recyclers of Middletown, Inc. v. Stein, L.L.C., 2025-Ohio-414, ¶ 39 (12th Dist.)
- Meranda Nixon Estate Wine, L.L.C. v. Cherry Fork Farm Supply Co., 2024-Ohio-1523, ¶¶ 48, 68 (12th Dist.)
- Stoll v. Gardner, 2009-Ohio-1865, ¶ 24 (9th Dist.)
- Pangallo v. Adkins, 2014-Ohio-3082, ¶¶ 11, 18 (12th Dist.)
- Thompson v. Irwin, 1997 WL 666079, *3 (12th Dist. Oct. 27, 1997)
- Beckett v. Warren, 2010-Ohio-4, ¶¶ 7, 11
- Jones v. Holmes, 2013-Ohio-448, ¶¶ 11, 14 (12th Dist.)
- Flint v. Holbrook, 80 Ohio App.3d 21, 25 (2d Dist. 1992)
- Riley v. Cincinnati Metro. Hous. Auth., 36 Ohio App.2d 44, 48 (1st Dist. 1973)

- Brown v. Terrell, 2018-Ohio-2503, ¶ 13 (9th Dist.)
- Engwert-Loyd v. Ramirez, 2006-Ohio-5468, ¶ 11 (6th Dist.)
- Jowers v. Eastgate Village, Ltd., 1999 WL 374131, *2 (12th Dist. June 7, 1999)
- Good v. Murd, 2014-Ohio-2216, ¶ 10 (6th Dist.)
- Diaz v. Henderson, 2012-Ohio-1898, ¶¶ 11, 14 (12th Dist.)
- Jones v. Goodwin, 2006-Ohio-1377, ¶ 6 (1st Dist.)
- Cooper v. Rose, 151 Ohio St. 316, 319 (1949)
- Vallejo v. Haynes, 2018-Ohio-4623, ¶ 32 (10th Dist.)
- Albright v. Univ. of Toledo, 2001 WL 1084461, *9 (10th Dist. Sept. 18, 2001)