

SUPREME COURT OF MISSISSIPPI

Kroger Co. v. Knox

98 So. 3d 441 (Miss. 2012) · Decided June 28, 2012

SUMMARY

The Mississippi Supreme Court held that Kroger was not liable for injuries sustained when a customer was assaulted and robbed in its parking lot. The court concluded that evidence of four purse-related incidents over three years was insufficient to establish that Kroger knew or should have known of an atmosphere of violence on the premises. Because Kroger had no duty to provide an armed parking-lot guard under those circumstances, the court reversed and rendered judgment for Kroger.

CASE DETAILS

COURT	Supreme Court of Mississippi
WRITING FOR THE COURT	Presiding Justice Dickinson; Justice Carlson; Justice Lamar; Justice Pierce; Justice King; Justice Kitchens; Justice Chandler; Chief Justice Waller; Justice Randolph
JURISDICTION	Mississippi
DECIDED	June 28, 2012
DISPOSITION	reversed
PROCEDURAL POSTURE	Kroger appealed from a jury verdict awarding Knox \$2,500,000 on her negligence claim arising from an assault in Kroger's parking lot. Kroger challenged the denial of its motion for directed verdict and motion for judgment notwithstanding the verdict.
STANDARD OF REVIEW	De novo review applies to a motion for directed verdict or judgment notwithstanding the verdict. The court reviews the legal sufficiency of the evidence, views the evidence in the light most favorable to the verdict, and asks whether substantial evidence exists such that reasonable fair-minded jurors could have reached different conclusions.
PRECEDENTIAL VALUE	Published Mississippi Supreme Court opinion; precedential
PARTIES	The Kroger Company, Kroger Limited Partnership I v. Linda Knox

TOPICS

- premises liability
- duty of care
- negligence
- motion for directed verdict
- appellate procedure

PRACTICE AREAS

torts premises liability negligence appellate procedure

QUESTIONS PRESENTED

1. Whether the evidence was legally sufficient to support a finding that Kroger knew or should have known of an atmosphere of violence in its parking lot.
2. Whether Kroger owed Knox a duty to place an armed security guard in its parking lot.
3. Whether the trial court erred by denying Kroger's motion for directed verdict or judgment notwithstanding the verdict.

HOLDINGS

1. A premises owner has no duty to provide an armed guard to protect customers from an assault when the plaintiff fails to present sufficient evidence that the owner had actual or constructive knowledge of an atmosphere of violence on the premises.
2. The evidence was insufficient as a matter of law to establish that Robinson's attack was a foreseeable consequence of Kroger's failure to place an armed guard in the parking lot.
3. The trial court erred by allowing the negligence claim to go to the jury because the evidence was legally insufficient to establish Kroger's duty or the foreseeability of the attack; judgment must be reversed and rendered for Kroger.

KEY QUOTATIONS

"But unless Kroger was on notice of an atmosphere of violence in its parking lot, it had no duty to place an armed guard there." (98 So. 3d at 441)

"We find as a matter of law that — in the context of Kroger's more than three million customer visits over the course of three years — four incidences of criminal activity are wholly insufficient to establish an atmosphere of violence on Kroger's parking lot." (98 So. 3d at 444)

"Because Kroger was not on notice of an atmosphere of violence on its premises, it had no duty to place an armed security guard in its parking lot." (98 So. 3d at 445)

FACTUAL BACKGROUND

After shopping at Kroger, Linda Knox was attacked in the store's parking lot by Isaiah Robinson, who knocked her down, punched her several times, and took her purse. Kroger had an unarmed Securitas guard patrolling the parking lot, an armed sheriff's deputy inside the store and patrolling the sidewalk, and a carryout service. During the preceding three years, Kroger had records of three purse-snatchings and one purse stolen from a car, while the store received approximately three million customer visits.

PROCEDURAL HISTORY

Knox sued Kroger, the assailant, and a private security company after Robinson assaulted her and took her purse in Kroger's parking lot. After Knox presented her case-in-chief, the trial court denied Kroger's motion for

directed verdict, and the jury returned a \$2,500,000 verdict for Knox. The Mississippi Supreme Court reversed and rendered judgment for Kroger.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None; the court reversed the judgment and rendered judgment for Kroger.

CASES CITED

- U.S. Fidelity & Guaranty Co. of Mississippi v. Martin, 998 So. 2d 956, 964 (Miss. 2008)
- Adcock v. Mississippi Transportation Commission, 981 So. 2d 942, 948-49 (Miss. 2008)
- Johnson v. St. Dominic-Jackson Memorial Hospital, 967 So. 2d 20, 22 (Miss. 2007)
- Natchez Electric & Supply Co. v. Johnson, 968 So. 2d 358, 362 (Miss. 2007)
- Blake v. Clein, 903 So. 2d 710, 731 (Miss. 2005)
- Crain v. Cleveland Lodge 1532, Order of Moose, Inc., 641 So. 2d 1186, 1189, 1191-92 (Miss. 1994)
- Mayfield v. The Hairbender, 903 So. 2d 733, 735-36 (Miss. 2005)
- Gatewood v. Sampson, 812 So. 2d 212, 219-21 (Miss. 2002)
- Lyle v. Mladinich, 584 So. 2d 397, 399 (Miss. 1991)
- Grisham v. John Q. Long V.F.W. Post, 519 So. 2d 413, 416 (Miss. 1988)
- Double Quick, Inc. v. Lymas, 50 So. 3d 292, 298 (Miss. 2010)
- Simpson v. Boyd, 880 So. 2d 1047, 1051 (Miss. 2004)
- Tillman v. Wendy's International, Inc., 252 F.3d 434 (5th Cir. 2001)
- Thomas v. Columbia Group, LLC, 969 So. 2d 849, 854-55 (Miss. 2007)
- Glover v. Jackson State University, 968 So. 2d 1267, 1279 (Miss. 2007)

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