

Snell v. Norwalk Yellow Cab Inc. (SC 19929)

Short Summary: Plaintiff was injured when she was struck by the defendant's taxi. Defendant parked the taxi and left it unlocked with the key in the ignition. The taxi was then stolen and shortly after struck the plaintiff. Court held that the doctrine of superseding cause applies in cases where a third party is criminally reckless. Also, held that the jury's finding that the defendant's negligence was the proximate cause of the injuries and the theft was a superseding cause of the injuries are legally inconsistent. Thus, plaintiff was entitled to a new trial.

The defendant, Johnley Sainval, had his taxicab stolen by two teenagers after he left the vehicle unattended, with the keys in the ignition in a Norwalk neighborhood known to have an above average crime rate. One of the thieves, Bowden, rear-ended a vehicle, drove over the curb striking a fire hydrant and then the plaintiff causing serious injuries. Brenda Snell then sued Sainval for negligence and Norwalk Yellow Cab alleging that they were vicariously liable for Sainval's negligence. The defendants by way of special defense, asserted the doctrine of superseding cause. They argued that the injuries were due to the intentional, criminal, reckless and/or negligent conduct of a third party, which intervened to break the causation between Sainval's negligence and the injuries. The jury found that Sainval was negligent by leaving the keys in the ignition in a higher crime area. Furthermore, that it was reasonably foreseeable that the vehicle would be stolen and operated in an unsafe manner; and that Sainval's negligence proximately caused some or all of the injuries. However, they jury concluded that the defendant was not liable because the accident was not within the scope of the risk created by Sainval's negligence.

The plaintiff then appealed to the Appellate Court, claiming that (1) it was improper for the trial court to instruct the jury on the doctrine of superseding cause; (2) even if the doctrine were properly submitted to the jury, the court's instructions and interrogatories misled the jury; and (3) the trial court improperly denied the plaintiff's motion to set aside the verdict and for a new trial on the ground that the jury's verdict was irreconcilable with its responses to the interrogatories. The Appellate court affirmed the verdict of the trial court. The plaintiff then appealed to the Supreme Court of Connecticut to determine (1) whether the Appellate court correctly affirmed on the basis that the doctrine of superseding cause applies in cases in which the conduct of a third party is criminally reckless? And (2) whether the findings that the defendant's negligence was the proximate cause of the injuries and that the accident was not within the scope of the defendant's negligence are legally inconsistent, thus, requiring a new trial. The court held that the doctrine of superseding cause applies where the conduct of a third party is criminally reckless, however, the jury findings were legally inconsistent, thus, the plaintiff is entitled to a new trial.

Causation for negligence purposes requires that the defendant's negligence be the actual and proximate cause of the injuries. The test for actual cause asks whether the injury would not have occurred but for the defendant's conduct. If the answer is yes, then the defendant's conduct is the actual cause. The test for proximate cause is whether the defendant's conduct was a substantial factor in producing the plaintiff's injury. The fundamental inquiry regarding proximate cause is whether the harm was of the same general nature as the foreseeable risk created by the defendant's negligence. If the defendant's conduct was a substantial factor, the proximate cause requirement is satisfied. § 440 of the Restatement (Second) of Torts defines a superseding cause as an act of a third person or other force which by its intervention prevents the

actor from being liable for harm to another which his antecedent negligence is a substantial factor in bringing about. Essentially, under the doctrine of superseding cause a person may be absolved of liability if the conduct of a third party (the intervening act) was unforeseeable and significant enough to break the chain of causation between the defendant's negligence and the injury.

The plaintiff argued that the superseding cause instruction was improper because the doctrine of superseding cause applies only to superseding acts that are unforeseeable and intended to cause harm. Thus, the instruction was improper because Bowden's reckless operation of the taxicab was neither unforeseeable nor intentional. The plaintiff relied on the court's ruling in *Barry v. Quality Steel Inc.* Which stated that the doctrine of superseding cause has outlived its usefulness in cases where a defendant claims that a subsequent negligent act by a third party cuts off their own liability for the plaintiff's injuries. However, the court explained that the reasoning behind the *Barry* holding is that Connecticut adopted comparative negligence meaning that a defendant will be liable for their proportion of the damages only. Thus, in a case where the defendant and a third party are negligent the plaintiff can recover a percentage of the damages from each based on how the jury apportions their liability (50/50 for example). This is significant because it encompasses the superseding cause doctrine as apportioning all the damages to the third party's negligence is the functional equivalent to finding that it was a superseding cause absolving the defendant of liability. Thus, the court abolished the doctrine of superseding cause in third party negligent matters to avoid unnecessarily confusing jurors. However, the court stated that *Barry* restricted the doctrine only in negligence cases because apportionment of liability is not available between parties liable for negligence and parties liable on any other

basis—such as criminal recklessness. Thus, the court held that the doctrine of superseding cause applies to criminal recklessness as it is not covered by comparative negligence.

The court also rejected the plaintiff's argument that the Judicial Branch's model civil jury instructions on superseding cause support the conclusion that the doctrine applies only to acts that were intended to cause harm as the model instructions are merely a guide and are not authoritative.

Regarding the second issue, the Appellate Court relied primarily on §§ 440 and 442 B of the Restatement (Second) of Torts, which it interpreted as establishing that an injury could be proximately caused by an actor's negligent conduct but not be within the scope of the risk created by that conduct. However, the court stated that unlike the Restatement, under Connecticut precedent a finding that conduct constitutes a superseding cause (not within the scope of risk) renders the original negligence so insignificant in relation to that superseding cause that the original negligence cannot be deemed to be a proximate cause of the injuries. Thus, under Connecticut law if there is a superseding cause then the defendant's negligence is cannot be the proximate cause—the superseding act is. The jury was informed that a finding of superseding cause (that the accident was outside the scope of risk) precludes a finding that the defendant was a proximate cause to the plaintiff's injuries. Furthermore, they were instructed that if the defendant was the proximate cause they were to move onto the issue of damages. Thus, the jury finding that the defendant was the proximate cause and that the theft was a superseding cause indicates they did not follow the above instruction regarding causation. Consequently, the court granted the plaintiff a new trial.

The concurrence reiterated that if a third party's conduct amounts to a superseding cause of a plaintiff's harm, then it is the sole proximate cause of that harm, and the negligent defendant

is not a proximate cause at all. Furthermore, Justice Ecker stated that this opinion is not a disavowal of the model jury instructions, rather, a reminder that they are to be trusted but verified.

The key takeaway of this case is that the superseding cause defense is still available to defendant's where the conduct of the third party is intentional or reckless. Also, unlike in the Restatement a finding of a superseding cause negates the defendant's conduct as a proximate cause under Connecticut law.