

Received
Washington State Supreme Court

No. 92556-9

DEC 21 2015
E
Ronald R. Carpenter
Clerk

SUPREME COURT

OF THE STATE OF WASHINGTON

JAY RHODES,

Plaintiff - Appellant,

v.

RODNEY MacHUGH,

Defendant – Respondent

ANSWER TO PETITION FOR REVIEW

Barry J. Goehler
WSBA No. 37660
Counsel for Defendant
Law Office of Barry J. Goehler
1001 SW Fifth Avenue, Suite 1530
Portland, OR 97204
503-820-2520
Fax: 503-820-2513

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. ARGUMENT	2
III. CONCLUSION.....	3

TABLE OF AUTHORITIES

<u>Rules</u>	<u>Page</u>
RAP 13.4(b)	1,2

I. INTRODUCTION

This case involves a claim for damages based on injuries sustained by Appellant Jay Rhodes (“Rhodes”) from an attack by a male sheep (“buck sheep” or “ram”) owned by Respondent Rodney MacHugh (“MacHugh”). Because there was no evidence that MacHugh knew or had reason to know that the animal had dangerous tendencies, the trial court granted summary judgment in favor of MacHugh. Rhodes appealed and the Court of Appeals affirmed the lower court’s ruling.

Rhodes has now filed a petition for review by the Washington Supreme Court. MacHugh does not object to the Issues Presented for Review statement provided by Rhodes. In summary, Rhodes invites the court to change longstanding Washington law regarding domestic animal liability. For the reasons articulated by the Court of Appeals and in the associated briefs, this invitation should be declined.

II. ARGUMENT

The standard for whether a petition for review may be granted is provided by RAP 13.4(b), which reads as follows:

A petition for review will be accepted by the Supreme Court **only**:

- (1) If the decision of the Court of Appeals is in conflict with a decision of the Supreme Court; or
- (2) If the decision of the Court of Appeals is in conflict with another decision of the Court of Appeals; or

- (3) If a significant question of law under the Constitution of the State of Washington or of the United States is involved; or
- (4) If the petition involves an issue of substantial public interest that should be determined by the Supreme Court.

RAP 13.4(b) (emphasis added). With respect to the first two possible bases for allowing review, the decision of the Court of Appeals was consistent with all published opinions on the issue and there is no conflict with any decision. The issues in the case do not involve any constitutional questions, so the third factor does not allow for review. Finally, the issues in this case do not involve “substantial public interest” and Rhodes has presented no evidence or argument to show that “substantial public interest” is implicated in this case. This is not a case where the decision below has sweeping consequences that extend beyond the parties to this case. Because the factors in RAP 13.4(b) have not been satisfied, Rhodes’ petition for review should be denied.

With respect to the substantive issues in the case, the arguments and authorities were fully presented below. MacHugh does not offer any additional argument; however, the policy arguments contained in MacHugh’s appellate brief should be considered regarding the unknown and potentially harmful consequences of a dramatic change in the law.


III. CONCLUSION

The Court of Appeals decision in this case correctly applied longstanding Washington law, which requires that the owner of a domestic animal have knowledge that the animal has dangerous propensities that are abnormal to its class. A change to that standard is not necessary and not appropriate. For these reasons, MacHugh respectfully requests that Rhodes' petition for review be denied.

///

Dated this 18th day of December, 2015

LAW OFFICE OF BARRY J. GOEHLER

By: 

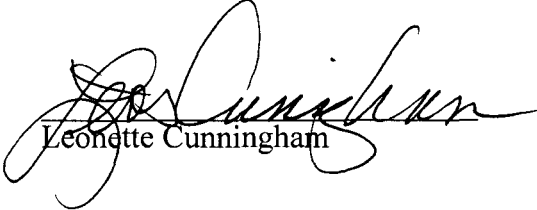
Barry J. Goehler, WSBA No. 37660
Of Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of December, 2015, I served the foregoing ANSWER TO PETITION FOR REVIEW on the following attorney by mailing a true copy thereof, certified as such, contained in a sealed envelope, with postage paid, addressed to:

David A. Williams
Attorney at Law
9 Lake Bellevue Drive, Suite 104
Bellevue WA 98005
Attorney for Appellant

and deposited in the post office at Portland, Oregon on this 18th day of December, 2014.


Leonette Cunningham