

WRIGHT v. BROWN

Supreme Court of Connecticut, 1975.
167 Conn. 464, 356 A.2d 176.

BOGDANSKI, ASSOCIATE JUSTICE . . .

The complaint alleged that a dog owned by the defendant Brown attacked and injured the plaintiff; that less than fourteen days prior to this incident, the same dog had attacked another person resulting in the quarantine of the dog by the defendant dog warden; that the dog warden released the dog prior to the expiration of the fourteen-day quarantine period required by § 22-358 of the General Statutes; that as a result of that premature release, the dog was placed in a situation where it attacked the plaintiff. The second and fifth counts of the complaint were based on negligence, alleging that the dog warden and the town failed to comply with the standard of conduct required by § 22-358 . . .

The dog warden and the town demurred to the complaint as follows: (a) to the second [and fifth] count "on the grounds that any purported violation of . . . [§ 22-358] would not constitute negligence since the plaintiff was not within the class of persons which that statute was designed to protect." . . .

The trial court concluded that § 22-358 was enacted to provide a period of quarantine to determine whether a person bitten by a dog required the administration of a rabies vaccine and "to protect members of the community from being bitten by diseased dogs." The court then concluded that the plaintiff was not within the class of person protected by § 22-358 since she had not alleged that she was bitten by a diseased

dog. [Accordingly, the trial judge sustained the demurrer of the dog warden and the town and dismissed the case as to them.]

The purpose of the quarantine requirement in § 22-358 is readily ascertainable from the meaning of that word. "Quarantine" means to isolate as a precaution against contagious disease or a detainment to prevent exposure of others to disease. While the specific concern of the legislature may have been to protect the victim of a dog bite from the threat of rabies, that restricted purpose is not expressed in the language of § 22-358. Nowhere is the control of rabies mentioned. The intent expressed in the language of the statute is the controlling factor. The trial court correctly concluded that § 22-358 was intended not only to protect persons bitten by a dog from the threat of rabies, but also to protect the general public from contact with diseased dogs.

"Where a statute is designed to protect persons against injury, one who has, as a result of its violation, suffered such an injury as the statute was intended to guard against has a good ground of recovery." That principle of the law sets forth two conditions which must coexist before statutory negligence can be actionable. First, the plaintiff must be within the class of persons protected by the statute. Second, the injury must be of the type which the statute was intended to prevent.

If we apply these principles to the purpose of § 22-358, it becomes clear that the class of persons protected is not limited; rather the statute was intended to protect the general public or, as stated by the trial court, "members of the community."

Since the demurrer to the second and fifth counts was addressed only to the class of persons protected by § 22-358, and since the plaintiff, as a member of the general public, is within that class, the demurrer should not have been sustained on that ground.

Although we have concluded that the second and fifth counts are not insufficient for the reason specified in the defendant's demurrer, we are not to be understood as holding that those counts can successfully withstand a claim that the plaintiff's injuries were not of the type which § 22-358 was intended to prevent. The second and fifth counts allege only that the plaintiff was attacked and injured by a dog that was prematurely released from quarantine. That allegation does not claim an injury of the type § 22-358 was intended to prevent. . . .