No. A26A1103

In The

Court of Appeals of Georgia

DORIS CAMPBELL,

Appellant,

v.

KAYE SMITH, AS THE ADMINISTRATOR OF THE ESTATE OF SUSAN TAYLOR,

Appellee.

ON APPEAL FROM THE SUPERIOR COURT OF LOWNDES COUNTY
NO. 2024CV0039

BRIEF OF APPELLEE

Austin Atkinson
M. Blake Walker
Morgan McClure
HALL BOOTH SMITH, P.C.
191 Peachtree St. NE
Suite 2900
Atlanta, GA 30303
404-954-5000
aatkinson@hallboothsmith.com
bwalker@hallboothsmith.com
mmcclure@hallboothsmith.com
Counsel for Appellee

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STATEMENT OF THE CASE

Plaintiff-Appellant Doris Campbell received a horrifying phone call from her mother, Carolyn Goslin, on July 9, 2017. Ms. Goslin was being attacked by her boyfriend, Clinton Taylor. V2-95–97. Ms. Goslin was visiting Mr. Taylor at his mother's home. V2-97. Appellant knew this and headed straight there. *See* V2-97. She was understandably worried. In addition to what her mother told her on the phone, Appellant also knew that Mr. Taylor had attacked Ms. Goslin before. V2-100. Appellant tried to enter the home when she arrived. V2-97–98. And as she was doing so, Mr. Taylor attacked her. V2-98.

Appellant later sued Mr. Taylor and his mother, Susan Taylor.[1] V2-8. This appeal concerns only Appellant's claims against Ms. Taylor. She alleges, in short, that Ms. Taylor failed to protect her from Mr. Taylor. V2-10. Appellee moved for summary judgment on two related grounds. Appellee argued (1) that Appellant assumed the risk of injury when she sought to protect her mother and (2) that Ms. Taylor lacked superior knowledge the danger Mr. Taylor posed. V2-35–43. The trial court

[1] Ms. Taylor has passed away, so Appellant has named Ms. Taylor's estate. V2-10. Ms. Taylor's estate is represented by Kaye Smith.

granted Appellee's motion on the first issue. V2-4–7. It did not reach the second issue. V2-7 n.4.

ARGUMENT

Two reasons justify affirming in this case. First, the Court should affirm because the trial court's reasoning is right. When Appellant made the (understandable) decision to protect her mother from Mr. Taylor, she knew the risks involved. And she does not now contend otherwise. Second, summary judgment was warranted because, at a minimum, Appellant had equal knowledge of the danger Mr. Taylor posed.

I. The Trial Court Correctly Concluded Appellant Assumed the Risk of Injury

Assumption of the risk is an affirmative defense that bars recovery by a plaintiff who assumed the risk of injury. *See Kane v. Landscape Structures, Inc.*, 309 Ga. App. 14, 17 (2011). To prevail on the defense here, a defendant must show three things: (1) that the plaintiff "had some actual knowledge of the danger"; (2) that the plaintiff "understood and appreciated the risks associated with the danger"; and (3) that the plaintiff "voluntarily exposed [himself or herself] to the danger." *Id.* at 17 (citation and internal quotation marks omitted). And as the trial court explained, that is what happened here. V2-4–7.

Appellant knew Mr. Taylor was a threat before she arrived at Ms. Taylor's home. This is not in dispute. Appellant's mother called Appellant while Mr. Taylor was attacking her. V2-97. And as Appellant was aware, this was the second time Mr. Taylor had attacked Appellant's mother within a week. V2-106–107. Not surprisingly, then, Appellant considered Mr. Taylor to be a violent person before she ever arrived at Ms. Taylor's home. V2-109. Indeed, Appellant went to Ms. Taylor's home *because* of this knowledge. She testified that she drove to Ms. Taylor's home immediately after her mother called. V2-97. And when she arrived, she tried to enter Ms. Taylor's home to try to protect her mother. V2-97–98 (testifying that she tried "pounding on the door" and that she tried "the door handle," which was locked); V2-103–104; Appellant Br. at 14 ("[Appellant] was faced with an emergent need to protect her blind mother . . . .").

Appellant, to be sure, does not appear to disagree with this view. She instead claims the trial court erred because she never consented to

Mr. Taylor attacking her.[2] Appellant Br. at 13–14 ("Appellant did not consent to getting into an altercation with Mr. Taylor . . . ."). Appellant insists, for example, that she did not "[know] she would be violently attacked by Mr. Taylor. Appellant Br. at 12. And she says she did not intend to "engage with" Mr. Taylor while at Ms. Taylor's home. Appellant Br. at 12. But consent to injury is not an element of the assumption-of-the-risk defense, and Appellant's contrary view misconstrues the law.

And a degree of consent is, to be sure, baked into the defense. *See Desai v. Silver Dollar City, Inc.*, 229 Ga. App. 160, 165 (1997). After all, a defendant asserting the defense must show that the plaintiff assumed (that is, consented to) the risk of injury. *Kane*, 309 Ga. App. at 18. But that does not mean a defendant must establish that the plaintiff consented to being harmed. Quite the opposite: "It is not the individual acts

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[2] Appellant also suggests the "sudden-emergency" doctrine applies. Appellant Br. at 14–15. It does not. Under the sudden-emergency doctrine, "one who in a sudden emergency acts according to his best judgment or, because of want of time in which to form a judgment, acts in the most judicious manner, is not chargeable with negligence." *Willis v. Love*, 232 Ga. App. 543, 545 (1998).

It is thus almost always raised by defendants. Indeed, the only time a plaintiff may rely on the doctrine when he or she is rebutting a defense of comparative negligence. *See Buford v. Benton*, 232 Ga. App. 102, 103 (1998). It has no relevance to whether a plaintiff assumed a known risk.

of negligence to which [a plaintiff] must consent, but the known risks arising from the chosen acts or omissions of the plaintiff." *Desai*, 229 Ga. App. at 165–66; *see, e.g.*, *Muldovan v. McEachern*, 271 Ga. 805, 809 (1999) (These undisputed facts establish that McEachern *consented to assume the risk* of suffering whatever harm he might sustain if the gun chamber being fired was loaded." (emphasis added)).

That is exactly what happened here. Appellant understood and assumed the *risk of injury* when she went to her mother's aid, and the trial court correctly granted summary judgment on this issue. *See Carter v. Scott*, 320 Ga. App. 404, 408 (2013) (reversing denial of summary judgment because the plaintiff assumed the risk of injury when he tried to intervene in a physical altercation); *see also Saulsbury v. Wilson*, 348 Ga. App. 557, 560 (2019) (plaintiff who intervened in dog fight assumed the risk of doing so when she intervened with bare hands); *Fagan v. Atnalta, Inc.*, 189 Ga. App. 460, 462, 376 S.E.2d 204, 206 (1988) ("[O]nly one conclusion is permissible, that is, appellant saw and recognized the risk, and deliberately interjected himself into the affray after the bartender was grabbed by a customer being ejected.").

II. This Court Should Affirm Even If It Disagrees with the Trial Court's Reasoning for Granting Summary Judgment

Although the trial court relied solely on Appellee's assumption-of-the-risk defense in granting summary judgment, Appellee raised other issues below. V2-5; V2-35–43. Important here, Appellee argued that Appellant's claim failed because she could not show that Ms. Taylor had superior knowledge of the threat Mr. Taylor posed to Appellant. V2-41–43. And to the extent this Court does not agree with the trial court's reasoning, it should affirm the judgment under the right-for-any-reason rule. *See Gaddy v. Sherard*, ___ Ga. App. ___, 922 S.E.2d 818, 820 (2025).

Appellant sued Appellee under a premise-liability theory of negligence, alleging Ms. Taylor failed to protect her from Mr. Taylor. V2-8–12. And because Appellant concedes she was, at best, a licensee at the time of the incident, Appellant had to show that Ms. Taylor willfully or wantonly failed to do so. OCGA § 51-3-2(b) ("The owner of the premises is liable to a licensee only for willful or wanton injury."); *See Stanton v. Griffin*, 361 Ga. App. 205, 209 (2021) ("A property owner owes a more narrow duty to licensees not to injure them wilfully or wantonly." (citation omitted)).

To do so, Appellant had to show, among other things, that Ms. Taylor knew that Mr. Taylor posed a risk *and* that Appellant did not also know. *See Aldridge v. Tillman*, 237 Ga. App. 600, 605 (1999). Nothing suggests Ms. Taylor knew Mr. Taylor would attack Appellant. On the contrary, according to Appellant, the attack happened "without warning." Appellant Br. at 12. But even if she did, it is undisputed that Appellant knew Mr. Taylor was dangerous:

> [QUESTION]: At the time of the accident, did you know that Mr. Taylor was violent?
>
> [APPELLANT]: Yes.

V2-109; *see* V2-97–107; *see also* discussion *supra* § I.

At a minimum, then, Appellant had equal knowledge of the danger Mr. Taylor posed, and her claim fails for this reason, too. *See Aldridge*, 237 Ga. App. at 605–606 (summary judgment proper because the plaintiff "had equal, if not superior knowledge, of the dangerous possibility [of an] assault."); *see also Manners v. 5 Star Lodge & Stables, LLC*, 347 Ga. App. 738, 741 (2018) ("Where a licensee has equal knowledge of the dangerous condition or the risks involved, there is no wilful or wanton action on the part of the owner and there is no liability to the licensee." (citation and internal quotation marks omitted)).

CONCLUSION

This Court should affirm the trial court's grant of summary judgment to Appellee.

This submission does not exceed the word-count limit imposed by Rule 24.

Respectfully submitted on March 11, 2026.

/s/ Austin Atkinson
Austin Atkinson
Georgia Bar No. 935864
M. Blake Walker
Georgia Bar No. 993236
Morgan McClure
Georgia Bar No. 884372
HALL BOOTH SMITH, P.C.
191 Peachtree St. NE, Suite 2900
404-954-5000
aatkinson@hallboothsmith.com
bwalker@hallboothsmith.com
mmcclure@hallboothsmith.com
Counsel for Appellee

CERTIFICATE OF SERVICE

I certify that there is a prior agreement with Jody D. Peterman, LLC to allow documents in a PDF format sent via email to suffice for service. And I certify that, on March 11, 2026, I served a copy of this filing on opposing counsel via email as follows:

Jody Peterman
Michael Burke
Stephen Delk
304 N. Ashley Street
Valdosta, Georgia 31601
229-247-0386
petermanlawoffice@yahoo.com
mburke.petermanlaw@gmail.com
sddelk.petermanlaw@gmail.com

/s/Austin Atkinson
AUSTIN ATKINSON
Georgia Bar No. 935864
HALL BOOTH SMITH, P.C.
191 Peachtree Street, NE
Suite 2900
Atlanta, Georgia 30303
404-954-5000
aatkinson@hallboothsmith.com
Counsel for Appellee