

SUPREME COURT OF VIRGINIA



SUPREME COURT BUILDING
100 NORTH NINTH STREET
RICHMOND, VIRGINIA 23219
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Granted Appeal Summary

Case

JESUS A. FAJARDO v. ANDREW STEWART, ET AL.
(Record Number 260156)

From

The Court of Appeals of Virginia.

Counsel

Elliott M. Buckner, Joseph L. Cantor, and Jeffrey N. Stedman (Cantor Grana Buckner Bucci, P.C.) and Kyle McNew (MichieHamlett PLLC) for appellant.

H. Robert Yates, III and Joseph M. Rainsbury (O'Hagan Meyer, PLLC) for appellees.

Assignments of Error

1. The Court of Appeals erred in determining that, when reviewing a trial court's order setting aside a jury verdict, the trial court's decision should be sustained unless plainly wrong or without evidence to support it, thereby adopting an improper standard for appellate review of a trial court's decision to set aside a jury verdict.
2. The Court of Appeals erred in giving a level of deference to the trial court's decision to set aside the jury verdict that it should have given to the jury verdict itself.
3. Having adopted an improper legal standard for review of a trial court's setting aside of a jury verdict, the Court of Appeals further erred in holding that the trial court's decision setting aside the verdict was not plainly wrong or without evidence to support it.
4. The Court of Appeals erred in holding that the evidence presented to the jury at trial was insufficient as a matter of law for the jury to conclude that Defendant Stewart breached a duty of care to Mr. Fajardo and was therefore negligent.
5. The Court of Appeals erred in determining that the jury's verdict was based on speculation, conjecture, guess, or random judgment.
6. The Court of Appeals erred in failing to consider both direct and circumstantial evidence supporting the jury's verdict.

7. The Court of Appeals erred when it failed to consider evidence presented at trial that supported the jury's verdict in favor of the Plaintiff.
8. The Court of Appeals erred when it considered evidence and inferences drawn from that evidence in a light most favorable to the Defendants rather than the Plaintiff.