

Mitchell v. Wal-Mart Stores, Inc.

Court of Appeals of Georgia, 1996
223 Ga. App. 328, 477 S.E.2d 631

FACTS The plaintiff Edith Mitchell brought this tort action against the defendant Wal-Mart Stores, Inc. alleging false imprisonment, assault, battery, and intentional infliction of emotional distress arising out of a July 18, 1995, incident in which the plaintiff was forcibly stopped as she exited the defendant's store. The plaintiff, accompanied by her 13-year-old daughter, went through the checkout and purchased several items at the defendant's store. As she exited, the plaintiff passed through an electronic antitheft device which sounded an alarm. Robert Canady, employed by the defendant as a "people greeter" and security guard, forcibly stopped the plaintiff at the exit, grabbed the plaintiff's bag, and told her to step back inside, but never touched the plaintiff or her daughter and never threatened to touch either of them. Nevertheless, the plaintiff described the security guard's actions in her affidavit as "gruff, loud, rude behavior." This security guard removed every item the plaintiff had just purchased and ran it through the security gate. One of the items still had a security code unit on it, which an employee admitted could have been the one that the employee had forgotten to pull off at the cash register. When the security guard finished examining the contents of the plaintiffs' bag, he put it on the checkout counter. This examination of her bag took ten or fifteen minutes. Once her bag had been checked, no employee of defendant ever told plaintiff she could not leave. The plaintiff was never threatened with arrest. The trial court granted the defendant's motion for summary judgment and the plaintiff appealed.

DECISION Summary judgment in favor of Wal-Mart affirmed.

OPINION The owner or operator of a mercantile establishment has the right to detain a person reasonably suspected of shoplifting. The cause of detention must be established by competent evidence and must be reasonable in length

of time. In the case of an establishment utilizing an anti-shoplifting or inventory control device, the automatic activation of the device as a result of a person exiting the protected area constitutes reasonable cause for the detention of the person. The agent's alleged rudeness is irrelevant, since his actions were clearly in response to the alarm, establishing probable cause. The plaintiff's claims for false arrest are without merit. It makes no difference to reasonable cause whether or not an employee's negligence in failing to deactivate the special tag set the device off. What matters is whether the method and time of detention were reasonable within statutory limitations.

The plaintiff was subjected to a ten- or fifteen-minute detention in the open, during which the items in the plaintiff's shopping bag were individually tested for the presence of the electronic antitheft sensor and after which the plaintiff's bag was returned to her and she was free to leave. This procedure was perfectly reasonable. Causing embarrassment is not the same as unlawful imprisonment. Similarly, there was no unlawful restraint either by force or fear here, as is necessary to recover for false imprisonment. It follows that the trial court correctly granted defendant's motion for summary judgment.

INTERPRETATION Under statutes in many states, a merchant is not liable for false imprisonment for detaining a shoplifting suspect if the merchant has probable cause and the detention is conducted in a reasonable manner and for a reasonable length of time.

ETHICAL QUESTION Was it fair to detain the plaintiff where it may have been the negligence of one of Wal-Mart's employees that caused the false alarm? Explain.

CRITICAL THINKING QUESTION What public policy supports granting merchants immunity from false imprisonment for detaining innocent persons?