

Bond Case Briefs

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Fite v. Mudd

Court of Appeals of Washington, Division 2 - November 9, 2021 - P.3d - 2021 WL 5190918

Pedestrian brought action against motorist and municipality, alleging negligence after he was struck by vehicle while in crosswalk.

The Superior Court granting summary judgment regarding pedestrian's duty of care and intoxication affirmative defense, and granted judgment for pedestrian after jury verdict in his favor. Motorist appealed.

The Court of Appeals held that:

- Even without urinalysis, pedestrian's admission that he was "high," i.e., under influence of drug, during accident potentially satisfied complete defense from liability for injury; factual issue existed as to whether pedestrian was under influence of drug, and therefore whether motorist was entitled to affirmative defense to liability for injury;
- Trial court abused its discretion by submitting instruction to jury that improperly emphasized pedestrian's theory of case;
- Police officer's denial of knowledge of police reports of prior accidents at intersection at issue, on cross-examination by pedestrian's attorney, did not open the door so they could be admitted; and
- Although pedestrian was required to look before entering crosswalk, he was not required to specifically look to left and right before entering crosswalk; and
- Witness who testified at trial that she did not remember if pedestrian had looked before entering crosswalk could be impeached with her prior inconsistent statement that pedestrian did not look before entering crosswalk.