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Tom v Tubby's

IIED

Intentional infliction of emotional distress is the intentional or reckless outrageous conduct either directed at plaintiff or knowingly done in plaintiff's presence which causes severe emotional distress.

The owner/bartender of Tubby's, when he realized there was a fire immediately abandoned Tom, Bella, and the other patrons. The abandonment occurred right in front of Tom and Bella sitting at the bar. As the owner, he has a greater duty of care owed to Tom and the others to protect patrons from risk of harm on the premises of his business, so his abandonment was outrageous. Though the man was acting to save himself, he knowingly acted in front of Tom in a manner that is substantially likely to cause distress: being abandoned in another's business with fire and smoke growing out of control. Tom suffers from insomnia and flashbacks, which is evidence of severe emotional distress.

Conclusion?

Bella v Jim

Battery

Battery is the intentional harmful or offensive touching of another without consent.

Jim acted purposely when he was fleeing the smoke and fire and slammed Bella to the ground. Bella could not see him in the smoke which suggests that she did not consent to the touching.

Privilege: Self defense

Self defense allows the privilege to use reasonable force to protect oneself where there is imminent bodily harm, but because the bodily harm was not from Bella, Jim committed a battery.

Jim v Tom

Trespass to Chattel

Trespass to chattel is the intentional interference with the property of another which impairs the chattel, causes a substantial dispossession, or causes harm.

Transferred intent from battery

Intent transfers where one intends to do one tort, but inadvertently does another. This rule does not apply to conversion or IIED.

Though Jim attempted to grab Tom, he instead grabbed his shirt, which caused it to tear. The intent to harmfully or offensively touch Jim instead impaired Jim's shirt as it began to rip under the force of Tom's grip.

Privilege: Defense of others

One is allowed to use reasonable force where there is the threat of imminent bodily harm to others, but because Bella was already injured on the ground there was no imminent threat of bodily harm to her, so Tom will not have the privilege.

good

Tom is liable for trespass to chattel.

Tom v Jim

Battery

Battery definition, supra.

Jim elbowed Tom with his elbow, which an intentional harmful or offensive touching because "jabbed" tends to be painful.

Privilege: Self Defense

Self defense definition, supra.

Because Jim faced the threat of dying in a fire and did not injure Tom, his apprehension of bodily harm and use of force was reasonable.

Jim did not commit battery ^{ob} to Tom.

Tubby's Customers v Tubby's

Negligence

Negligence is the creation of an unreasonable risk of harm to a foreseeable plaintiff. It is comprised of four elements: duty, breach, causation, and damages.

Duty is the obligation to act with due care to prevent harm to others.

The Tubby's owner/ bartender as an operator of a business has an increased duty to those entering the premises to remedy foreseeable hazards to invitees/patrons. The potential for a kitchen fire at a grill requires the use of fire sprinklers. Correctly installing the sprinklers, training employees with how to handle a fire per industry protocol is an obligation placed on the owner to prevent the potential of harm to invitees/patrons without the use of the sprinklers.

Also, Tubby had a duty not to abandon his patrons, no?

Therefore, Tubby's owed a duty to its customers.

Breach is the failure to meet one's duty.

Tubby's failed to correctly install the fire sprinklers or to train employees per industry standard, which allowed the fire to rage out of control and its smoke to blind patrons, impede their ability to escape the burning restaurant, and increase their exposure to the smoke.

There was a breach in duty.

Causation is comprised of actual cause or cause in fact, where "but for" the defendant's careless act the harm would not have occurred or the careless act is the substantial factor causing the harm. Proximate cause is the relatively close relationship between the defendant's careless act and the plaintiff's harm.

But for Tubby's failure correctly install the sprinklers and to train employees according to protocol the fire would have been controlled and the customers would

not have been exposed to dangerous smoke and the likely potential of not making it outside to safety.

There is actual cause.

Because none of the four exceptions to proximate cause apply to the harm suffered by the plaintiffs, there is proximate cause.

Damages are either personal injury or property damage.

Patrons suffered personal injuries including minor smoke inhalation, Bella suffered severe smoke inhalation requiring hospitalization, and Tom suffered minor burns on his hands as well as severe emotional distress.

Therefore, there are damages. Tubby's was negligent in its obligation to its invitees/customers/patrons.

good

Tubby's v Reporter

Trespass to Land

Trespass to land is the intentional unauthorized entry onto the land of another.

The reporter had to duck under the police line, which signifies that one is not able to enter the area unless given access by the police or other emergency personnel. The entry was intentional because she purposely ducked under. The entry was unauthorized because no facts support any authorization.

good

Therefore, the reporter trespassed onto the land.

Reporter v Tom

Assault

Assault is the apprehension of an imminent battery where the defendant has the present apparent ability to commit the battery.

Tom's threatening words and demeanor created an apprehension in the reporter because she was taken aback by his response. She promptly moved on to a different area of the scene, which suggests that she took his threat seriously. On the other hand, Tom's emotional state and shock of what had just occurred and the burns to his hands may not have made the apparent ability to commit the battery.

good thought
but a
bit of a
stretch
of the
facts

Therefore, there may not be an assault.

Reporter v Emergency Medical Services

Negligence

Negligence definition, supra.

The EMS as professionals in human safety have a greater than ordinary duty of care to prevent harm to others, which includes the reporter. This duty was met when putting up the police line preventing people from entering a hazardous area affected by the fire and the efforts to contain the fire.

The EMS met their obligation of due care by preventing and warning of the hazards.

The reporter willfully ignored the warning and attempt to prevent harm by ducking under the police line and moving amidst the scene. Though she tripped over the hose and was injured because of the fire departments actions, and there is causation in fact, there is no proximate cause because it would be against public policy to award damages to one who perceives and risk posted by EMS and ignores it to her detriment.

She injured her ankle, so there was damages.

Because there was not beach or proximate cause, there is no negligence.

-no duty owed to undiscovered trespassers

-duty met: caution tape

END OF EXAM

Good issue spotting & format.
Some nice analysis &
use of facts as well.