

Patron v. Homeowner

Patron (P) would likely bring a cause of action against Homeowner (H) for negligence in allowing Burglar (B) to take his gun. Negligence consists of duty to plaintiff, breach of that duty, proximate and actual causation, and damages. Here, H will argue that he had no duty to P as P was not an anticipated defendant. Under the Cardozo rule from the Palsgraf case, the Plaintiff must be in the "cone of danger" of defendant's action. Here, it is likely that H would not have anticipated that by leaving his handgun in his house, B would steal it and shoot P. P will likely argue that H's violation of the statute created strict liability duty to P and H breached that duty when he failed to keep his gun in a locked box. However, for strict liability to attach, the consequence of the action must be of the type of harm that the statute was designed to protect against. Here, it is probable that the anticipated harm was that children would get access to the gun and injure themselves in the home. It is likely not the intention of the statute to dissuade burglars from stealing handguns since the burglar could have taken the locked box and opened it at home and still committed the crimes against P. Therefore, a strict liability theory under statutory violation would likely fail. Likewise, the intervening act of B creates a break in the chain of causation. It was not foreseeable to H that his house would be broken into and his gun stolen and used to commit a crime. Therefore, the causation argument fails. P will be able to show damages, but since the other elements cannot be established, P will not have a viable cause of action against H.

P v. B

P's first cause of action against B will be for false imprisonment. False imprisonment involves confining a plaintiff to a fixed boundary where the plaintiff is aware that he or she cannot leave. Here, when B stopped P to mug her, it is likely that P would be under the impression that B was not allowing her to leave. Further, B's body created a fixed boundary around which P was contained. The amount of time that a person is contained is not relevant. Here, it appears that P was only contained for several seconds, however that will be sufficient to sustain a cause of action for false imprisonment. Therefore, it is likely that P will be able to sue for false imprisonment.

P's next cause of action is assault. Assault is the creation of reasonable fear or apprehension by threat of force on P. Here, B, a male, stopped P, a female, late at night in a parking lot where she was alone and demanded her purse. The reasonable fear in an assault action is based on the subjective fear of the Plaintiff. It is likely that P will be able to argue that she felt a reasonable fear or apprehension when he demanded her purse and subsequently pulled out a gun saying "you made me mad, so now I'm going to shoot you." Her fear was manifested by her fainting. Therefore, it is likely that she will be able to sustain this cause of action.

P's next cause of action is for battery. Battery is an offensive or harmful, unconsented touching of another. Here, B did not touch P, but her falling down and hitting her head will substitute for the contact requirement because it was a likely and natural consequence of B's actions. Likewise, the contact with the ground resulted in a concussion. Contact is judged on an objective reasonable person standard. Here, the contact P suffered would fall under that category and would suffice. P did not consent to the touching and therefore B has no defenses.

P's next cause of action is for intentional infliction of emotional distress (IIED). IIED is manifest by extreme and outrageous behavior of Defendant that is intentionally directed at plaintiff that shocks the conscience. The alleged extreme conduct is judged on an objective standard, not a subjective standard to the plaintiff. Here, B's action of pulling a handgun on P late at night while she was alone in a parking lot will likely be held an extreme and outrageous act that would likely invoke a shocking response from P or any other person. B might argue that he did not intend for P to fall down and hit her head, however that defense will not be valid because only the intent to commit the act is required, not the consequences of the act. Although physical manifestation of injury are not required in an IIED case, the concussion that P suffered will go to establish her shock as a result of P's actions. Therefore, it is likely that P will be able to sue under IIED.

P's next cause of action is for her property. P could either sue for conversion or trespass to chattels. Both causes of action require depriving the plaintiff of his or her personal property without plaintiff's consent. The difference between the two causes of action is the amount of time that the plaintiff is deprived of his or her items. A conversion required plaintiff to be deprived of the items for such a long period of time that plaintiff is deprived of the economic benefit or use of those items. This requires an extended period of time or an infinite period of time. A trespass to chattels is when plaintiff is only deprived of the items for a short period of time. Here, P fainted immediately before her purse was taken. The facts state that B was later apprehended by the police, however, it is unclear for how long P was deprived of her items or if they were ever returned to her. Therefore, if her items were immediately returned to her, it is likely that she will only be able to pursue a trespass to chattels cause of action, otherwise, she could pursue conversion.

## P v Cinema

Cinema (C) is also liable to P under a premises liability theory. P, as a paying guest of C's establishment was a business invitee. Business invitees are people from whom a business generates some type of financial gain, therefore, customers, patrons, or even people who come into use a business's bathroom are business invitees. Business invitees are afforded the highest level of protection under tort law. namely, the business owner must inspect and make safe the premises from all known dangers. Here, P, as a patron to C, was a business invitee. C had a duty to inspect its premises and make it safe for all invitees against all known dangers. The known dangers need not be expressly manifest. If a danger is obvious and the business knew or should have known under a constructive knowledge theory, the business will be liable. Here, C knew

that there had been previous attacks on invitees in the parking lot at night during the past several years, but provided no lighting or security guard. This constituted a danger to the patrons and C was aware of it, therefore, C had a duty to make the premises safe. C will likely raise three arguments: 1) that the addition of security or lights would not prevent the robberies, and 2) that the criminal acts of others are intervening acts that sever liability, and 3) assumption of the risk. Regarding the first point, it is likely that adding lights and security guards would deter robberies in an area that had previously not had those luxuries. The plaintiff need not prove that it absolutely would have prevented the occurrence, but rather that it would have a substantial probability of deterring the offensive act. Here, it is likely that the addition of lights and security would have deterred the act, so C will fail on this argument. Next, C will argue that the robbery was an intervening act. Generally, a business is not liable for felonies or crimes committed on its property. However, here C had actual knowledge that this type of activity had been occurring on its invitees for a number of years and could have prevented it with the addition of lights and security, therefore C will not be able to use this defense. Next, C will argue that P assumed the risk of a robbery by going to a late night showing alone and parking in a dark parking lot. However, it is likely that P did not anticipate that she would be robbed by doing this, nor is being robbed a likely consequence of going to a late night movie, therefore, there was no implied assumption of that risk.