Circuit Court for Baltimore City
Case No. 24-C-14-005196

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2272

September Term, 2015

SARAH BRANHAM

v.

DANIEL COONRADT

Eyler, Deborah S.,
Kehoe,
Rodowsky, Lawrence F.,
(Senior Judge, Specially Assigned)
JJ.

Opinion by Kehoe, J.

Filed: August 4, 2017

Appellant, Sarah Branham, and appellee, Daniel Coonradt, were in a car crash on March 20, 2012. In 2014, appellant filed a negligence action against appellee in the Circuit Court for Baltimore City, seeking damages for injuries sustained in the accident. At trial, appellee stipulated to being responsible for causing the accident, leaving the jurors to consider causation for appellant's injuries and whether she was entitled to damages. The jury ultimately returned a verdict for the appellee. Appellant brought this appeal, arguing that her motion for a new trial should have been granted. She presents the following issues, which we have restated:

> 1. Whether the trial court erred when it denied appellant's motion for a new trial on damages when the jury returned a verdict of $0 in damages even though the defendant's liability had been stipulated and supporting evidence of appellant's injuries had been presented to the jury?
>
> 2. Whether the trial court erred when it did not grant a new trial based upon the apparent prejudices reflected during the voir dire process?

We affirm the judgment, as the decision to grant a request for a new trial is one of the areas where the trial court has the greatest discretion, and we see no abuse of that discretion in this case.

Background

Appellant was driving her car when it was struck by a vehicle operated by appellee, who drove through a red light. Appellant suffered injuries to her neck, which were treated with physical therapy and injections of anti-inflammatory medication in the months following the accident. In 2014, she sued appellee in the Circuit Court for Baltimore City, and a trial was held a few days before Thanksgiving in 2015. The parties stipulated

that appellee was solely responsible for causing the accident, leaving causation and damages at issue.

Prior to the jury selection process, appellant requested that potential jurors be informed that she was in a same-sex marriage and that they be asked whether they have any beliefs that would make this an issue if they were to serve on the jury. Three members of the juror pool identified themselves to the court in response to questions about their biases or beliefs regarding appellant's marriage, biases or prejudices they had against the parties, or their ability to be fair. Two of those individuals indicated that they had negative beliefs about same-sex marriage, and the third stated an inability to be fair based on a prior experience in an accident. A fourth potential juror later self-identified as being biased against appellant based on her same-sex marriage. The court excused all four individuals for cause. After the voir dire process had concluded, the judge asked twice whether the parties were prepared to proceed with the six jurors selected. Both parties indicated they had no objection to the jury.

The trial moved forward. Evidence presented included the deposition testimony of the plaintiff's treating physician and the defense medical expert witness, both presented to the jury by video tape. The doctors differed somewhat on what amount of appellant's physical therapy after the accident was necessary, but both agreed that at least some of the treatment was reasonable and causally connected to the accident. There was also testimony that appellant's spinal problems were an underlying, preexisting condition for which she had sought treatment as recently as several months before the crash. While

appellant maintained that she was asymptomatic at the time of the accident, her doctor indicated that this was based on her self-reporting and that recurrence of symptoms related to disc injuries, such as hers, is very common. Additionally, there was evidence that appellant missed a number of her physical therapy appointments after the accident.

The jury deliberated and returned after about 30 minutes. Presented with the question, "Do you find that Daniel Coonradt's negligence was a proximate cause of the injuries claimed by the Plaintiff, Sarah Branham?" the jury replied "No." Appellant immediately moved for judgment notwithstanding the verdict, pointing to the defense expert's statements that at least some of the post-accident treatments were medically necessary and causally related to the accident, but the court denied the motion. Appellant also filed a motion for a new trial or, in the alternative, to alter or amend the judgment, on the grounds that the jury's verdict was against the weight of the evidence presented at trial, and that the verdict could only have been the product of the jury's bias against appellant for being in a same-sex marriage. The trial court denied the motion. This appeal followed.

Standard of Review

The decision to grant or deny a new trial is one in which the trial court has wide latitude:

> The question whether to grant a new trial is within the discretion of the trial court. Ordinarily, a trial court's order denying a motion for a new trial will be reviewed on appeal if it is claimed that the trial court abused its discretion. However, an appellate court does not generally disturb the exercise of a trial court's discretion in denying a motion for new trial.

Spaw, LLC v. City of Annapolis, 452 Md. 314, 363 (2017) (quoting *Buck v. Boradloom Rugs, Inc.,* 328 Md. 51, 57 (1992)).

The trial judge's discretion is not fixed, but rather,

> will expand and contract depending upon the nature of the factors being considered, and the extent to which the exercise of the discretion depends upon the opportunity the trial judge had to feel the pulse of the trial and to rely on his own impressions in determining questions of fairness and justice.

Yiallouros v. Tolson, 203 Md. App. 562, 574 (2012) (quoting *Buck v. Cam's Broadloom Rugs,* 328 Md. 51, 58–59 (1992)). The judge's discretion is at its broadest in situations such as this, where the matter:

> ask[s] the trial judge to draw upon his own view of the weight of the evidence; the effect of an accumulation of alleged errors or improprieties by defense counsel, no one of which may have been serious enough to provoke a request for, or justify the granting of, a mistrial; and the allegedly inadequate verdict, in determining whether justice would be served by granting a new trial. Under circumstances such as this, the power to grant a new trial is an equitable one in its nature. Because the exercise of discretion under these circumstances depends so heavily upon the unique opportunity the trial judge has to closely observe the entire trial, complete with nuances, inflections, and impressions never to be gained from a cold record, it is a discretion that will rarely, if ever, be disturbed on appeal.

Id. at 574-75 (quoting *Buck v, Cam's Broadloom Rugs*, 328 Md. at 59).

1. Refusal to grant a new trial based on zero verdict for the appellant

Appellant argues that the trial court erred in refusing to grant a new trial where the verdict for the defendant was not supported by the evidence. She notes that the parties stipulated that appellee was solely responsible for causing the accident, that both the appellant's and the appellee's medical experts agreed that at least some of the medical

treatment following the accident was necessary and causally connected to the accident, and that the bills were overall fair and reasonable. Her position is that there is no way the jury could have brought back the verdict they did if they followed the jury instructions and confined themselves to considering the evidence presented at trial. Therefore, appellant contends that the trial court should have granted the motion for a new trial as the jury's refusal to award damages to her flies in the face of the facts presented to it.

Appellant relies on assumptions about the jurors' behavior and beliefs, as well the shock value of the zero verdict in a stipulated liability case, to support her appeal. However, the relevant legal principles are clear. First, the trial judge's decision to deny the motion for a new trial was within her discretion, and we review for abuse of that discretion. *Spaw*, 452 Md. at 363. Second, it is presumed that jurors have understood and followed the instructions issued by the court prior to deliberation. *Johns Hopkins Hosp. v. Correia,* 174 Md. App. 359, 401 (2007), *aff'd sub nom. Johns Hopkins Hosp. v. Correia*, 405 Md. 509 (2008). Finally, the judge's discretion in ruling on a motion for new trial is broadest in situations where the decision hinges on the judge's own weighing of the evidence and whether a new trial is necessary in the interest of justice. *Yiallouros,* 203 Md. App. at 574 (quoting *Buck v. Cam's Broadloom Rugs*, 328 Md. at 59). This is precisely the situation at hand.

Jurors are free to evaluate witness testimony and the evidence presented at trial for themselves, which includes determining how much weight to give the testimony of expert witnesses. *See, e.g., Boston Sci. Corp. v. Mirowski Family Ventures, LLC*, 227 Md. App.

177, 199 (2016), *cert. denied sub nom. Boston Sci. Corp. v. Mirowski Family Ventures*, 448 Md. 724, 141 (2016), *and cert. denied*, 137 S. Ct. 1066 (2017) (stating "the jury and the jury only has the power to assess the weight of the evidence, a power which passes to the trial judge's discretion upon motion for a new trial."); *Pulte Home Corp. v. Parex, Inc.,* 174 Md. App. 681, 711 (2007) (noting that "'[c]redibility determinations, the weighing of evidence, and the drawing of legitimate inferences from the facts are jury functions'"). While both medical experts agreed that appellant was injured after the car crash, they disagreed on what amount of treatment was reasonable. There was also evidence that her spinal problems were a recurring, long-term problem she had dealt with for years prior to the crash, and that she has failed to attend many of her physical therapy appointments after the accident. In light of this, it is conceivable to us that the jury viewed her evidence with skepticism and believed that the accident was not the cause of her injuries and health expenses. Jurors may not disregard evidence, but they may be unpersuaded by it. Based on this alternative rationale for the verdict, it does not strike us as an abuse of discretion that the trial judge found that the evidence did not warrant granting a new trial.

Even if we were to disagree with the trial court based on our reading of the record, "[s]o long as the Circuit Court applies the proper legal standards and reaches a reasonable conclusion based on the facts before it, an appellate court should not reverse a decision vested in the trial court's discretion merely because the appellate court reaches a different conclusion." *Spaw,* 452 Md. at 363 (quoting *Neustadter v. Holy Cross Hosp. of Silver*

Spring, Inc., 418 Md. 231, 242 (2011)). We see no indication that the trial court judge deviated from either the law or the facts, and therefore we find that the trial court did not abuse its discretion in denying the motion for a new trial based on the claim that the verdict was contrary to the evidence.

2. Bias by the Jury

Appellant asserts that the jurors were biased against her because of her same-sex marriage and that the jury's verdict reflected that bias. She contends that the trial court abused its discretion in denying her motion for a new trial on that basis.

We have summarized what occurred during voir dire earlier in this opinion. After the trial judge informed the potential jurors that appellant was in a same-sex marriage and asked whether that fact would impact their decision, three potential jurors identified themselves either initially or through further questioning as being biased against appellant. A fourth indicated bias based on previous experience in an accident. All four potential jurors were stricken for cause.

What is significant is that following voir dire, the court asked the parties twice whether they wished to proceed with the six jurors selected. Both times, appellant's counsel joined appellee's counsel in agreeing to move forward with the jury. In *State v. Stringfellow*, 425 Md. 461, 469 (2012), the Court noted that, "[g]enerally, a party waives his or her voir dire objection going to the inclusion or exclusion of a prospective juror (or jurors) or the entire venire if the objecting party accepts unqualifiedly the jury panel (thus seated) as satisfactory at the conclusion of the jury-selection process." That is what

occurred in the present case; in fact, there was no indication whatsoever that appellant was dissatisfied with the jury's composition until the verdict was returned. Appellant has waived her right to challenge the make-up of the jury on appeal.

Before this Court, appellant reiterates her argument that the jurors' bias against her, rooted in their antagonistic feelings towards her marriage, was the only reason they could have arrived at the verdict against her. While we take this allegation seriously, the issue was waived, and even if it were not, appellant can point to nothing in the record other than the verdict that supports her contention. Moreover, as discussed earlier, the evidence presented at trial provided reasons other than bias which could explain the verdict.

The presence of an alternative explanation for the jury's verdict against appellant, coupled with the lack of anything in the record showing bias against her based on her being in a same-sex marriage, proves dispositive in this case. We conclude that the trial court judge did not abuse her discretion in denying the motion for a new trial on the basis of juror bias.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED. APPELLANT TO PAY COSTS.