Circuit Court for Baltimore City
Case No. 24-C-18-000280

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0813

September Term, 2019

KEITH C. STUBBS, JR.

v.

MORGAN STATE UNIVERSITY

Meredith,
Arthur,
Friedman,

JJ.

Opinion by Arthur, J.

Filed: July 16, 2020

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

A university student was stabbed after he intervened in a fight to protect his friend from assailants who, he knew, were armed with knives. The student sued the university, complaining that it negligently failed to prevent the fight from occurring. The Circuit Court for Baltimore City granted the university's motion for summary judgment.

The student appealed. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In March of 2015, Keith Stubbs Jr. was a second-semester freshman at Morgan State University in Baltimore, where he studied, resided, and played on the football team. Stubbs was one of the 7,500 to 8,000 students who were enrolled at the University at that time.

To provide security on its 170-acre campus, the University employed its own police department, which was comprised of approximately 35 officers. The University also employed 12 unarmed security guards, whose main task was to observe and report to campus police.

The University employed other security measures as well. Among other things, the University engaged a private security firm that supplied additional officers at designated locations during the evening and at night. It used security cameras to conduct forensic investigations. It placed "blue phones" (emergency telephones) around the campus so that people could call the police if necessary. Finally, the University police attend weekly intelligence meetings with the Baltimore City Police Department, whose northeast precinct abuts the University campus.

A. Student Center Party and Post-Party Altercation

On the evening of Friday, March 13, 2015, Stubbs attended a party at the campus student center. The campus police shut down the party, moving partygoers outside and following them to their dorms.

As Stubbs was leaving the party, he witnessed an argument between one of his teammates and a friend of Carlos Mars, another student. Stubbs testified that he did not know either of the students who were arguing.

During the argument, Anthony Fludd, a close friend and teammate of Stubbs, punched one of Mars's friends in the face. Stubbs was not involved in this altercation.

According to Stubbs, the altercation "died out pretty quickly." Only one punch was thrown, and no one else was fighting when the police arrived at the scene shortly thereafter. The chief of the University police testified that the University was aware of the incident, but that, as far as he knew, the responding officers did not write an incident report about it.

Stubbs heard that the party was shut down after an argument broke out because a member of the football team was dancing with someone else's girlfriend. The ensuing altercation was a continuation of the argument. Stubbs believes that this altercation precipitated the incident in which he was stabbed a few days later.

B. Events Preceding the March 17, 2015, Fight

In the early afternoon of March 17, 2015, Stubbs was in his dorm room when his roommate and another friend told him that Anthony Fludd and Harry Robertson, a friend of Carlos Mars, were "arguing back and forth on Twitter." Stubbs did not ask for details

or report the argument to anyone because, he said, he was not interested in it and it had nothing to do with him.

Stubbs walked with some friends to the campus store. As he and his friends returned from the store, Stubbs saw Carlos Mars, Harry Robertson, and Robertson's girlfriend, Dominique Cross, sitting outside his dormitory. Stubbs knew Dominique Cross because a few evenings earlier he and Fludd had driven around Baltimore with her.

Stubbs heard Cross tell Mars and Harry Robertson: "[T]hat's him. That's one of the boys that was with him . . . He doesn't know anything though. He doesn't know anything." According to Stubbs, it was "almost as if she was pleading." Stubbs began to suspect that something was going on and thought that something was going to happen to him.

The group approached Stubbs and asked him where they could find Fludd. Stubbs told them, "That sounds like something you should find out for yourself." At his deposition, he explained that he was "trying to remove [himself] from the situation."

One of the men asked Stubbs, "Is you with it?" Stubbs did not understand what the man meant, but he responded, "If you're asking me[,] Anthony [Fludd] is my friend."

Stubbs entered his dormitory, where he encountered Fludd, who was about to leave the building. Stubbs warned Fludd not to go outside because Mars, Robertson, and a group of their friends were looking for him. Fludd ignored the warning and exited the building. On the way out, Fludd mentioned that one of their teammates was outside.

Stubbs followed Flood outside. He believed that he was Fludd's "only line of defense" and that Fludd "was probably going to get attacked or jumped" if he went out by himself.

C. The Fight

Stubbs testified that, when he went outside, Fludd and Harry Robertson were already fighting. Stubbs stood with his back to a pillar because he was worried about being attacked from behind. As he watched the fight, Stubbs was thinking: "[O]kay. I got to defend. That's, you know, what I've always been taught, defend, stay and help. His goal was "to get [Fludd] out of the situation."

Stubbs did not call the police. He explained that, in his experience as an African-American man, the police are slow to respond, "and nine times out of ten, the person who called is probably going to wind up being the one who gets arrested or – hurt." He added: "[N]ine times out of ten something bad's going to happen to you for calling the cop." His "first instinct" was not to call 911, but to save Fludd, "because nobody else [was] going to save him."

Although Fludd and Harry Robertson initially were the only combatants, Carlos Mars and another student named Deronn Robertson were "rotating" around them as they fought. At some point, Carlos Mars brandished a knife.

As the fight shifted to a grassy area, Stubbs moved behind a bench to separate himself from the altercation and to prevent anyone from attacking him. The fight broke up momentarily, Fludd tried to walk away, and Stubbs appears to have tried to get between Fludd and the others.

As Stubbs was trying to get Fludd out of the fight, Harry Robertson re-engaged with Fludd. Deronn Robertson entered the fight and drew what Stubbs believed to be a weapon. At that point, Stubbs intervened and began punching Deronn Robertson.

In the melee, Stubbs was stabbed several times by both Carlos Mars and Deronn Robertson. He was also tased by Carlos Mars's girlfriend. Stubbs suffered multiple stab wounds, a punctured lung that required surgery, and a fractured rib.

Stubbs testified that he was not aware of anyone calling the police until after he was stabbed.

D. Stubbs's Complaint

On January 18, 2018, Stubbs filed a complaint in the Circuit Court for Baltimore City against the University, asserting claims for negligence; negligent hiring, training, retention, and supervision; and agency or respondeat superior. Stubbs alleged that the University owed him a duty, as an invitee on its campus, to protect him from criminal assaults, that it failed to provide proper and adequate security, and that this failure proximately caused his injuries.[1]

The University moved to dismiss all three counts pursuant to Md. Rule 2-322(b)(2) for failure to state a claim upon which relief can be granted. On June 14, 2018, the circuit court granted the University's motion with respect to Stubbs's claim of negligent hiring, training, and supervision, but denied the motion as to the negligence

[1] Stubbs also named two private security firms as defendants. Both were dismissed by stipulation.

claim. The court ruled that the respondeat superior claim was not a separate claim, but was subsumed in the basic negligence claims against the University.

At the close of discovery, the University moved for summary judgment on the negligence claims. In support of its motion, the University argued that it did not have a duty to protect Stubbs from the criminal actions of a third party that were not foreseeable to the University. Alternatively, the University argued that because Stubbs voluntarily assumed the risk of injury when he engaged in a fight with two armed men, he was barred from recovery in negligence.

Stubbs countered that the University was not entitled to judgment as a matter of law because there was, at minimum, a genuine dispute of material fact as to whether the University "knew or should have known [of] events occurring on the premises prior to and leading up to the assault, which made imminent harm foreseeable."

After a hearing, the circuit court granted summary judgment in favor of the University. Ruling from the bench, the trial judge concluded that there was no evidence to show that the University should have reasonably foreseen that an altercation would occur. The court did not address whether Stubbs assumed the risk of his injuries when he entered the altercation.

Stubbs noted a timely appeal. He presents this Court with a single question, which we have rephrased to make it less tendentious: Did the court err in granting the University's motion for summary judgment?[2]

For the reasons explained below, we shall affirm the circuit court's grant of summary judgment in favor of the University.

STANDARD OF REVIEW

When a party moves for summary judgment, the court "shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law." Md. Rule 2-501(f).

The issue of whether a trial court properly granted summary judgment is a question of law. *Butler v. S & S P'ship*, 435 Md. 635, 665 (2013) (citation omitted). In an appeal from the grant of summary judgment, this Court conducts a *de novo* review to determine whether the circuit court's conclusions were legally correct. *See D'Aoust v. Diamond*, 424 Md. 549, 574 (2012). The relevant inquiry is well known:

> When reviewing a grant of summary judgment, we determine whether the parties properly generated a dispute of material fact and, if not, whether the moving party is entitled to judgment as a matter of law. This Court considers the record in the light most favorable to the nonmoving party and construe[s] any reasonable inferences that may be drawn from the facts against the moving party.

[2] Stubbs phrased his question as follows: "Did the lower court err by ignoring existing caselaw and substantial factual evidence to rule on a question of material fact which should have been left to the trier of fact?"

Blackburn Ltd. P'ship v. Paul, 438 Md. 100, 107-08 (2014) (citations and quotation marks omitted).

DISCUSSION

I.

A claim of negligence includes four elements. The plaintiff must establish: (1) that the defendant was under a duty to protect the plaintiff from injury, (2) that the defendant breached that duty, (3) that the defendant's breach of that duty proximately caused the loss or injury suffered by the plaintiff, and (4) that the plaintiff suffered actual loss or injury. *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. 207, 218 (2005).

"The analysis of a negligence action usually begins with the question of whether a duty existed" (*id.*), which is a question of law to be determined by the court. *Valentine v. On Target, Inc.*, 353 Md. 544, 549 (1999). "Absent a duty owed to the plaintiff, as established by the plaintiff, there can be no liability in negligence and the defendant is entitled to judgment as a matter of law." *Rhaney v. University of Md. E. Shore*, 388 Md. 585, 597 (2005).

In general, "there is no duty to protect a victim from the criminal acts of a third person in the absence of a statute, contract, or other relationship between the party in question and the third person, which imposes a duty to control the third person's conduct, or between the party in question and the victim, which imposes a duty to protect the victim." *See, e.g.*, *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. at 219; *accord Rhaney v. University of Md. E. Shore*, 388 Md. at 597 ("[t]here is no duty generally to control the conduct of a third person so as to prevent him or her from causing physical

harm by criminal acts or intentional torts, absent a special relationship"); *Scott v. Watson*, 278 Md. 160, 166 (1976) ("a private person is under no special duty to protect another from criminal acts by a third person, in the absence of statutes, or of a special relationship[]").

At common law, when persons are injured while on the property of another, their legal status (as an invitee, a social guest, or a trespasser) dictates an owner or occupier's duties to them. *See, e.g.*, *Macias v. Summit Mgmt., Inc.*, 243 Md. App. 294, 316-17 (2019). "[I]n general, the highest duty is owed to invitees; namely, the duty to 'use reasonable and ordinary care to keep the premises safe for the invitee and to protect the invitee from injury caused by an unreasonable risk which the invitee, by exercising ordinary care for the invitee's own safety will not discover.'" *Id*. at 317 (quoting *Deboy v. City of Crisfield*, 167 Md. App. 548, 555 (2006)). In defending the grant of summary judgment in its favor, the University assumes that Stubbs was a business invitee on the University's property at the time of his assault.[3]

The duty to protect an invitee against an unreasonable risk of physical harm extends to risks arising from the intentional or even criminal acts of third parties. *See* Restatement (Second) of Torts § 314A cmt. d. Similarly, a landlord's duty of care to its tenants encompasses a duty to protect the tenants from injuries sustained "as a result of

[3] Perhaps this is because in *Rhaney v. University of Md. Eastern Shore*, 388 Md. at 602, the Court of Appeals stated that the plaintiff "may have been a business invitee as a student on the [university] campus generally in its common areas, dining halls, and academic buildings[.]"

criminal acts committed by others in the common areas within the landlord's control." *Scott v. Watson*, 278 Md. at 165-66..

"Ordinarily," however, "a possessor of land is under no duty to protect an invitee from harm until the possessor knows or should know that the acts of a third party who causes harm are occurring or are about to occur." *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. at 221. "The duty may be based on knowledge of events, or on past experience that indicates a likelihood of conduct by third persons in general, or conduct by a particular individual who is likely to harm an invitee." *Id.*

In *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. at 223, this Court outlined "three possible factual scenarios when an injured party seeks to hold the possessor of land liable for injuries inflicted by the intentional act of a third person."

> In the first scenario, which encompasses "most of the reported cases":
>
> > [A]n assailant entered the premises without invitation and without the knowledge of the defendant. In those cases, the plaintiff's claim was based on an asserted duty to eliminate conditions that contributed to the criminal activity, such as providing security personnel, lighting, locks, and the like. The asserted duty was based on knowledge of prior similar incidents, not on knowledge of facts relating to the incident in question and prior to its culmination.

Id.; see id. n.5 (citing *Scott v. Watson*, 278 Md. 160 (1976); *Smith v. Dodge Plaza Ltd. P'ship*, 148 Md. App. 335 (2002); *Moore v. Jimel, Inc*., 147 Md. App. 336 (2002); *Schear v. Motel Mgmt. Corp. of America*, 65 Md. App. 670 (1985)); *see also Hemmings v. Pelham Wood L.L.L.P*, 375 Md. 522, 548 (2003) (holding that, once a landlord takes reasonable steps to eliminate conditions that contribute to criminal activity on the

premises, the landlord has a continuing obligation to inspect and maintain the security measures that it has put in place).[4]

In the second scenario, a tenant or invitee assaults another tenant or invitee, and the injured party sues the owner for not preventing the assault. The claim of negligence is based on the owner's knowledge of the assailant's prior conduct, which allegedly made the assault foreseeable and preventable. *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. at 224 (citing *University of Md. E. Shore v. Rhaney*, 159 Md. App. 44 (2004), *aff'd*, 388 Md. 585 (2005)).

In the third and final scenario, the claim is not based on knowledge of prior similar incidents, either generally or involving the specific assailant. Nor does the plaintiff contend that the owner failed to eliminate an unsafe condition on the property. Instead, the plaintiff asserts that the owner failed to act despite its knowledge of events occurring on the premises, before and leading up to the assault, which made imminent harm foreseeable. *Id.* In *Corinaldi*, for example, the employees of a hotel (as agents of the owner) allegedly failed to act promptly to avert a preventable injury after they were informed that a guest at a loud party had displayed a gun and that the police should be called. *Id.* at 227-38.

The parties have structured their arguments around *Corinaldi*'s three scenarios. Consequently, we shall address the evidence pertaining to each.

[4] Although the first scenario usually involves an assailant who was an intruder, *Corinaldi* recognized that in one case "the assailant was another patron," not an intruder. *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. at 223 (citing *Smith v. Dodge Plaza Ltd. P'ship*, 148 Md. App. 335 (2002)).

A. Knowledge of Prior, Similar Incidents on Premises.

Addressing the first scenario, Stubbs argues that because of the University's alleged knowledge of prior, similar criminal conduct on its campus, it had a duty (in his words) to "prevent or mitigate the likelihood" that that conduct would occur in the future. Quoting *Corinaldi*, 162 Md. App. at 223, Stubbs recognizes that this duty typically involves "providing security personnel, lighting, locks, and the like."[5]

Stubbs asserts that the University "has a long history of violent attacks." He relies on University records that appear to catalog the number and type of incidents to which the University police responded over the course of several years. In a case where the focus is on the defendant's knowledge of prior, similar incidents, these records are of little value, as the vast majority of the reported assaults do not involve weapons. *See Smith v. Dodge Plaza Ltd. P'ship*, 148 Md. App. 335, 345-46 (2002) (holding that two prior instances involving violence, neither with a weapon, was insufficient to impose a duty on a nightclub to protect a patron who was attacked by a third party with a knife).[6]

[5] Quoting *Corinaldi*, 162 Md. App. at 223, the University argues that the first scenario applies when "an assailant entered the premises without invitation and without the knowledge of the defendant." Because Stubbs's assailants were students who had a right to be where they were, the University argues the first scenario does not apply in this case. *Corinaldi* recognizes, however, the first scenario may apply when an invitee assaults another invitee, as long as the owner's liability is based on its knowledge of similar criminal activity on the premises in the past. *Id.*; *see supra* n. 4.

[6] In addition to the University's records, Stubbs cites a 2012 article in *The Daily Beast*, an online publication, which included the University on the list of "America's Most Crime-Rattled Colleges." The *Daily Beast* article is not the type of "admissible evidence" that will defeat a motion for summary judgment. *Beatty v. Trailmaster Prods., Inc.*, 330 Md. 726, 740 (1993).

More to the point, Stubbs claims that "[t]here have been numerous attacks involving knives since at least 2012." In fact, the record reflects a total of only two assaults with a knife in 2012, none in 2013, and two in 2014. The record tells us nothing about the nature of those assaults, except that they involved knives. Thus, we have no idea whether these assaults involved students brawling in a public space (as in this case), or whether they involved domestic disputes that occurred inside locked dorm rooms, attacks perpetrated by intruders in poorly-lighted outdoor spaces or poorly-secured University buildings, fights between fans of different teams at sporting events, or something else.

For these reasons, we have no evidence that the University failed to implement reasonable measures (in addition to the measures that it was already implementing) to prevent the reoccurrence of incidents similar to the ones that had previously occurred. Similarly, we have no evidence that the measures that the University was obligated to implement, whatever they were, would have prevented the fight in which Stubbs was injured, or the injuries that Stubbs suffered when he joined an ongoing fight against two combatants who, he knew, were armed. On this record, therefore, Stubbs did not generate a triable issue of fact under *Coranaldi*'s first scenario.[7]

[7] Stubbs argues that the University police should have monitored the students' social media postings. He also argues that University police should have watched the video feed from their security cameras as the events were happening, rather than use the video solely for forensic purposes after an incident had occurred. At his deposition, however, Stubbs's expert admitted that the standard of care did not require those efforts.

B. Knowledge of Assailant's Prior Conduct

The second scenario is based on this Court's opinion in *University of Md. Eastern Shore v. Rhaney*, 159 Md. App. 44 (2004), which the Court of Appeals affirmed in *Rhaney v. University of Md. Eastern Shore*, 388 Md. 585 (2005).

Rhaney was a student who had been assaulted by his roommate, Clark, in their dorm room at the University of Maryland Eastern Shore ("UMES"). *Rhaney v. University of Md. E. Shore*, 388 Md. at 589. UMES had previously suspended Clark because of his involvement in two, related on-campus fights with other students, but had readmitted him after he participated in professional counselling. *Id*.

A jury found that UMES was negligent in allowing Clark to reside in a dorm. This Court reversed the jury verdict on the ground that, as a matter of law, the university did not breach its duty of care to Rhaney. *University of Md. Eastern Shore v. Rhaney*, 159 Md. App. at 60.

In affirming this Court's decision, the Court of Appeals agreed with the university's contention that "it neither had knowledge nor could have foreseen that Clark would batter his roommate in their shared dormitory room." *Rhaney v. University of Md. E. Shore*, 388 Md. at 600. The Court reasoned that UMES "possessed records of only one disciplinary action against Clark," which, the Court said, was "an inadequate basis from which to make the harm to Rhaney foreseeable." *Id.* Aside from the single disciplinary action, which involved an altercation at a social event that carried over to a second fight in the dining hall on the following day, there was nothing in the record "to suggest that Clark had a propensity for violence" or that UMES "had knowledge, or

reason to believe, that Clark was more than a one-time, youthful offender of the student disciplinary system." *Id.* at 600-01.

The Court based its conclusion on the premise that the relationship between UMES and Rhaney was that of a landlord and tenant, at least while Rhaney was in his dorm room. *See id*. at 602. But even if Rhaney was considered to be an invitee, "he would not prevail." *Id.* at 603. "There was," the Court wrote, "insufficient evidence of a breach of the duty of reasonable and ordinary care to keep the premises safe or to protect Rhaney from injury caused by an unreasonable risk which Rhaney, through the exercise of ordinary care for his own safety, could not discover." *Id.*

In this regard, the Court observed that Rhaney himself knew of the prior disciplinary action against Clark, but did not request a new roommate. *Id*. Because Rhaney knew as much as UMES knew about Clark's alleged propensity for violence, but "saw no reason to act to protect himself against any foreseeable danger" (*see id*.), the Court concluded that the university did not act unreasonably. *Id.* As a matter of law UMES "could not be said to be responsible for reasonably foreseeing what happened and, therefore, to have a duty to forestall its occurrence or stand liable for the consequences." *Id.*

In this case, Stubbs's assault was even less foreseeable to the University than the assault in *Rhaney*, because the University knew even less about the assailants' alleged propensity for violence than UMES knew in *Rhaney*. According to Stubbs, the University knew or should have known that a fight might break out on March 17, 2015, because of the fight, a few days earlier, between Stubbs's roommate, Anthony Fludd, and

one of Carlos Mars's friends. Yet, in contrast to *Rhaney*, where UMES knew of Clark's history of violence and had suspended him for it, this record contains no evidence that the University knew who the participants were in the earlier fight. Moreover, the undisputed facts in the record establish that before March 17, 2015, Stubbs's assailants had no record of violating any code of student conduct or any other law.

Furthermore, in contrast to *Rhaney*, where Rhaney knew as much as UMES did about his roommate's propensity for violence, Stubbs actually knew more than the University knew about the threat that his assailants posed. He knew that a fight was about to start. He knew that his roommate, Fludd, was the target of the assailants. He knew that he himself was in danger. Most notably, he knew that two of the assailants were armed before he entered the fray.

In short, if the evidence was insufficient to create a triable issue of fact concerning UMES's liability in *Rhaney*, it is even less sufficient in this case. The circuit court did not commit legal error in failing to find a basis of liability under *Corinaldi*'s second scenario.

C. Knowledge of Events Occurring on the Premises

The final *Corinaldi* scenario comes from *Corinaldi* itself. In that case, a large group of young people were having a loud party in a hotel room. *Corinaldi v. Columbia Courtyard, Inc.*, 162 Md. App. at 225. By approximately 10:15 p.m., the hotel's employees knew that some guests were gaining access to the party through a side door and avoiding the hotel lobby. *Id.* at 225-26. On two occasions, a hotel employee asked the partygoers to reduce the noise level and to stop admitting guests through the side

door. *Id*. at 226. At about 10:30 p.m., the manager's supervisor advised her to tell the occupants to end the party. *Id.* At 10:45 p.m., the person who had rented the room went to the hotel desk, reported that the party was out of control and that someone had a gun, and advised the manager to call the police. *Id*. The hotel called the police just before 10:55 p.m., and the police arrived within three minutes. *Id.* At some time between 10:53 and 10:55 p.m., however, one of the occupants had been shot. *Id.*

On that record, this Court concluded that, at least as of 10:45 p.m., when the manager was asked to call the police because someone had a gun, a jury could reasonably find that the harm was both imminent and foreseeable. *Id.* at 228. In addition, because the police responded within three minutes of the call, a jury could reasonably find that the harm could have been prevented had the manager made the call as soon as she heard that someone had a gun. *Id*. Accordingly, this Court reversed the grant of summary judgment in favor of the hotel and remanded the case for trial.

This case is quite different from *Corinaldi*. In this case, the participants (including Stubbs) refrained from informing the University of the imminent threat of harm until after it had occurred, when Stubbs was stabbed. The University did not have notice that an assault was about to occur. The University found out about the assault only after it was over, and the delay in notification is attributable (in part) to Stubbs's own failure to inform the authorities about what was about to happen. Therefore, because the University did not fail to act promptly to prevent an imminent and foreseeable harm of after receiving notice of the threat of harm, the circuit court did not commit legal error in finding no basis for liability under *Corinaldi*'s third scenario.

CONCLUSION

As a matter of law, the University had no duty to foresee and prevent the fight in which Stubbs was stabbed. Therefore, the circuit court did not err in granting the University's motion for summary judgment.[8]

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

[8] As an additional ground to uphold the grant of summary judgment, the University argues that, as a matter of law, Stubbs assumed the risk of his injuries when he voluntarily interjected himself in a fight with combatants who, he knew, were armed. The University acknowledges that the circuit court did not rely on that ground and that, ordinarily, we may affirm the grant of summary judgment only on the grounds on which the circuit court relied. *See, e.g.*, *Newell v. Runnels*, 407 Md. 578, 608 (2009). Nonetheless, the University argues that we may consider assumption of the risk because it is "inextricably intertwined" with the grounds on which the court relied. *See Eid v. Duke*, 373 Md. 2, 11 (2003) (considering whether the plaintiff had a doctor-patient relationship with the physician who reviewed his records for a health insurer, because that issue was "inextricably intertwined" with the issue of whether the plaintiff's medical malpractice claims were preempted by ERISA). We agree that the issues of duty and assumption of risk are related to one another, particularly insofar as the University's duty is "to protect the invitee from injury caused by an unreasonable risk which the invitee, *by exercising ordinary care for the invitee's own safety will not discover*.'" *Macias v. Summit Mgmt., Inc.*, 243 Md. App. at 317 (quoting *Deboy v. City of Crisfield*, 167 Md. App. at 555) (emphasis added). We disagree, however, that the issues are "interrelated" in the required sense of being two aspects of the same issue: the question of whether the University breached a duty of care to Stubbs is conceptually distinct from whether Stubbs consented to relieve the University of its duty of care by intentionally and voluntarily exposing himself to a known risk. *See, e.g.*, *Crews v. Hollenbach*, 358 Md. 627, 640-41 (2000). Thus, we reject the University's request for us to adopt that reason as an alternative or supplemental basis to affirm the judgment of the circuit court.