

Hernandez v. Arizona

117 Ariz. 244, 866 P.2 1330, 1994 Aziz. LEXIS Arizona Supreme Court, 1994

Facts: state relevant facts

Cause of action: Negligence

History: Summary judgment for defendants

Issue: Did the fraternity and D's owe a duty of due care to Hernandez?

Rule (emphasis added)

1. Under the *common law rule*, there is no liability for bar owners or social hosts when an "able bodied man" caused harm because of his intoxication. It is the consuming, not the furnishing of alcohol that causes the harm.¹ (*This is a historical note. The court does not discuss this rule in the application of law.*)
2. One who supplies a thing to another who ... knows or has reason to know² that because of youth or inexperience ... may cause an unreasonable risk of harm to himself and others is subject to liability for physical harm.
3. One who furnishes liquor to a minor breaches a common law duty owed to innocent parties who may be injured.
4. Furnishing alcohol to minor violates the law.

Application (emphasis added)

There is a duty not to give dangerous items to those with diminished capacity. In this case, the dangerous item was the alcohol that was provided to Rayner, an underage drinker who was attending the fraternity party.³ It is foreseeable that underage drinkers who become drunk may injure themselves or others, as what occurred here when Rayner, with a blood alcohol level was .15 (exceeding the legal limit), collided with plaintiff's vehicle after he left the party.⁴

There isn't much difference between giving alcohol to a minor, who will be driving his car, or giving a car to an intoxicated minor. Injury to the minor or others is foreseeable, as in this case. Additionally, furnishing alcohol to underage drinkers, including Rayner, violates the law.⁵ A violation of the law creates liability, including the defendants in this case. The fraternity, its officers, fraternity members who contributed money to buy alcohol, the university and others may have liability.

Conclusion (emphasis added)

D's had duty to Hernandez not to provide alcohol to those under the legal drinking age because it was reasonably foreseeable that others would be injured.⁶

Summary judgment was reversed and remanded.⁷ The case goes to trial for those who negligently furnished alcohol to the underage drinkers if that act caused an injury to a third person (Hernandez).⁸

¹ "Able bodied man" would be of legal drinking age, and thus not applicable to the case.

² Reference to the "reasonable person"

³ Applying rule 2 & 3

⁴ Applying rule 2 & 3: *For more thought, think about reasonably foreseeable injuries (other than driving accident). This would not be included in the brief, but may come up in class discussion.*

⁵ Referring to rule 4 and raising "Negligence per se," although the court did not discuss the rule. *For more thought, analyze whether the elements are present. Again, this would not be in the brief.*

⁶ Answer the issue.

⁷ Procedural decision.

⁸ The court notes that certain defendants, while owing a duty to plaintiff, may not be liable unless the breach caused the injury. That decision will be made at trial.