IN THE COURT OF APPEALS OF IOWA

No. 8-047 / 97-1025

000363

VICTORIA A. SNARZYK,

Appellant,

vs.

TIMOTHY J. DAILY and CITY OF CEDAR RAPIDS,

Appellees.

FILED
MAR 27 1998
CLERK SUPREME COURT

Appeal from the Iowa District Court for Linn County, Thomas M. Horan, Judge.

Victoria A. Snarzyk appeals from an adverse jury verdict in a personal injury action. **AFFIRMED.**

Matthew J. Nagle and Susan H. Sibert of Lynch, Dallaas, Smith & Harman, P.C., Cedar Rapids, for appellant.

Mohammad H. Sheronick, Cedar Rapids, for appellees.

Heard by Cady, C.J., and Huitink, and Mahan, JJ.

with reckless disregard rather than negligence. She also asserts the trial court erred by failing to submit jury instructions regarding Daily's duties as a driver.

I. Standard of Review

We review Snarzyk's claims for correction of errors at law. *See Johnson v. Johnson*, 564 N.W.2d 414, 416 (Iowa 1997). We reverse only if the error in giving or refusing the jury instructions is prejudicial. *Id.* at 417.

II. Standard of Care

The driver of an authorized emergency vehicle is given certain privileges when responding to an emergency call. *See* Iowa Code § 321.231(1) (1997). If a police vehicle is responding to an emergency call, the responding officer may proceed past a stop sign or signal after slowing down as may be necessary for safe operation. *Id.* § 321.231(3)(a). In order for this exception to apply, the emergency vehicle must use an audible or visual signaling device. *Id.* § 321.231(4). In any case, the authorized privileges given to emergency vehicles will not relieve the driver from the "duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of the driver's reckless disregard for the safety of others." *Id.* § 321.231(5).

We have previously determined reckless disregard is the proper standard of care for the drivers of authorized emergency vehicles under Iowa Code section 321.231. *See Morris v. Leaf*, 534 N.W.2d 388, 390 (Iowa 1995). The rationale

the speed limit. Moreover, in *Morris* we observed, "section 321.231 requires a level of culpability beyond mere negligence to support liability." *See Morris*, 534 N.W.2d at 390. Consequently, we find the district court did not err by determining the reckless disregard standard of care applied to this case.

III. Jury Instructions

Substantial evidence must be presented at trial to support the submission of a proposed jury instruction. *Smith v. Air Feeds, Inc.*, 556 N.W.2d 160, 165 (Iowa App. 1996). Evidence is substantial when reasonable minds would accept it as adequate to reach the conclusion. *Id.* Moreover, the court's instructions must convey the applicable law in such a way that the jury has a clear understanding of the issues it must decide. *Sonnek v. Warren*, 522 N.W.2d 45, 47 (Iowa 1994). The trial court, however, must refuse to instruct on issues having no substantial evidentiary support or which rest merely on speculation. *Thompson v. City of Des Moines*, 564 N.W.2d 839, 846 (Iowa 1997).

Snarzyk contends the trial court erred by failing to instruct the jury on Daily's duties as a motorist. Specifically, Snarzyk claims the jury should have been instructed Daily had a duty to maintain a proper lookout, maintain control of his vehicle, yield the right-of-way, drive with care when vision obstructions occur, sound a siren to warn other drivers, and obey the rules of the road. She maintains the failure to include the instructions materially affected her right to a fair trial and placed an unfair burden on her by relieving Daily of his duties to obey the rules of the road.