

Circuit Court for Baltimore County
Case No. C-03-CV-22-003381

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 946

September Term, 2023

MADISON MOHR-KEYS

v.

CAROLE MOULSDALE

Graeff,
Friedman,
Beachley,

JJ.

Opinion by Friedman, J.

Filed: September 18, 2024

* This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to MD. RULE 1-104(a)(2)(B).

In Maryland, the “boulevard rule” provides that a driver on an unfavored road must yield the right-of-way to a driver on a favored road. If there is a collision caused by a failure to yield the right-of-way, the driver on the unfavored road is negligent as a matter of law.

In this Court and below, the parties have treated this as a boulevard rule case. Appellee, Carole Mouldsdale, argues that it was a boulevard rule case. Appellant, Madison Mohr-Keys, argues that it was a boulevard rule case (but that the boulevard rule shouldn’t apply because Mouldsdale was either speeding or had the last clear chance to avoid the accident). And the circuit court judge granted a motion for judgment as a matter of law, took the case from the jury, and found that it was a boulevard rule case. Or as that judge said: “It’s [b]oulevard [r]ule all of the way.”

For the reasons that follow, however, we think that the evidence of whether the boulevard rule applied was a disputed factual issue. As a result, the jury was required to resolve that factual dispute and the circuit court erred by granting the motion for judgment.

FACTS

Mouldsdale was driving on Holabird Avenue in Baltimore, when Mohr-Keys pulled out of a bank parking lot and a crash occurred. Mohr-Keys sued. The parties stipulated to damages and proceeded to trial solely on the issue of liability. Significant evidence suggested that Mohr-Keys, the driver on the unfavored road, failed to properly yield the right of way to Mouldsdale, the driver on the favored road, Holabird Avenue. At the conclusion of the evidence, the circuit court granted a motion for judgment, finding that the boulevard rule applied, and that Mohr-Keys was, therefore, negligent as a matter of law. This timely appeal followed.

ANALYSIS

The boulevard rule means that a driver on a disfavored road must yield the right-of-way to a driver on a favored road, and if there is a collision, the driver on the disfavored road is negligent as a matter of law. MD. CODE, TRANSPORTATION (“TR”) § 21-403(a), (c); *Creaser v. Owens*, 267 Md. 238, 245 (1972); *Poteet v. Sauter*, 136 Md. App. 383, 416 (2001). The boulevard rule, however, applies only to favored and disfavored drivers when the vehicles are still in the intersection. *Creaser*, 267 Md. at 244; *Dail v. Tri-City Trucking Co.*, 39 Md. App. 430, 434 n.10 (1978). Once the disfavored driver has entered the flow of traffic, the driver is no longer disfavored and “is entitled to the same rights and subject to the same duties as other drivers on the highway.” *Creaser*, 267 Md. at 244.

Significant evidence suggested that the accident occurred when Mohr-Keys pulled out of the bank parking lot onto Holabird Avenue. Mouldsdale testified that when she first saw Mohr-Keys’ vehicle, it was “perpendicular ... right in front of [her].” Mouldsdale also introduced testimony from an eyewitness who described that Mohr-Keys had not completed her turn before Mouldsdale’s vehicle struck Mohr-Keys’ vehicle. Thus, these witnesses testified that Mohr-Keys had pulled from the disfavored road into the intersection but had not completed her turn when her car was struck. If these witnesses were to be believed, the boulevard rule applied and Mohr-Keys was negligent as a matter of law.

Mohr-Keys, however, testified that she had completed her turn onto Holabird Avenue and was no longer in the intersection when Mouldsdale’s vehicle drifted into her lane and struck her car:

MOHR-KEYS: I was pulling out of the ... parking lot, and ... when I was in my lane, I got hit.

* * *

COUNSEL: The reason that the driver's side rear quarter of your vehicle was struck was because it was still in Ms. Mouldsdale's lane of travel at the time of impact, correct?

MOHR-KEYS: No, it was not.

COUNSEL: Okay. So it's your testimony that Ms. Mouldsdale drifted or swerved into your lane, but [her vehicle] passed you somewhat, correct?

MOHR-KEYS: Yes.

COUNSEL: But you saw her drift or swerve into your lane; is that correct?

MOHR-KEYS: Yes.

Mohr-Keys' testimony therefore, if believed, would lead to the conclusion that she had finished her turn, cleared the intersection, and that the boulevard rule should no longer apply by the time the cars collided.

This was a factual dispute that was for the jury to decide, not the trial court on a motion for judgment pursuant to Maryland Rule 2-519. *See, e.g., Tate v. Bd. of Educ., Prince George's Cnty.*, 155 Md. App. 536, 545 (2004) (“[I]f there is any evidence, no matter how slight, that is legally sufficient to generate a jury question, the case must be submitted to the jury for its consideration.” (quoting *Orwick v. Moldawer*, 150 Md. App. 528, 531-32 (2003))); *Grady v. Brown*, 408 Md. 182, 197-99 (2009) (affirming the denial of a motion for judgment notwithstanding a verdict involving the boulevard rule because there were disputed facts as to whether unfavored driver yielded the right-of-way). We

vacate the judgment and remand the case to the Circuit Court for Baltimore County for a new trial.¹

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE
COUNTY VACATED. CASE
REMANDED FOR FURTHER
PROCEEDINGS. COSTS TO BE
PAID BY APPELLEE.**

¹ On remand, the jury should be instructed to consider, first, whether the boulevard rule applies. *See Creaser*, 267 Md. at 245. If the boulevard rule applies, the jury should be instructed, next, to determine whether the last clear chance doctrine applies (the determination of which may involve considering Mouldsdale's speed). *See id.*; *Carter v. Senate Masonry, Inc.*, 156 Md. App. 162, 168 (2004) (explaining that the last clear chance doctrine requires a finding that the defendant was negligent).

Additionally, Mohr-Keys argues that the circuit court erred in determining that the minor passenger in Mohr-Keys' vehicle at the time of the collision was also negligent as a matter of law. We do not see such a finding. Nevertheless, on remand, the parties should revisit the status and liability of and to the minor passenger.