

[Cite as *Holebrook v. McCracken*, 2004-Ohio-3291.]

COURT OF APPEALS OF OHIO, EIGHTH DISTRICT

COUNTY OF CUYAHOGA

NO. 83764

MATTHEW HOLBROOK	:	ACCELERATED DOCKET
	:	
Plaintiff-appellant	:	
	:	JOURNAL ENTRY
vs.	:	and
	:	OPINION
ERIN MCCRACKEN	:	
	:	
Defendant-appellee	:	
	:	
DATE OF ANNOUNCEMENT OF DECISION	:	June 24, 2004
CHARACTER OF PROCEEDING	:	Civil appeal from
	:	Cuyahoga County Court of
	:	Common Pleas
	:	Case No. CV-466188
JUDGMENT	:	AFFIRMED.
DATE OF JOURNALIZATION	:	
APPEARANCES:		
For plaintiff-appellant:		JACK G. FYNES NATHAN A. HALL Attorneys at Law SHUMAKER, LOOP & KENDRICK, LLP North Courthouse Square 1000 Jackson Street Toledo, Ohio 43624
For defendant-appellee:		JAMES M. JOHNSON Attorney at Law KOETH, RICE & LEO CO., L.P.A.

1280 West Third Street
Cleveland, Ohio 44113

KENNETH A. ROCCO, J.

{¶1} This cause came to be heard on the accelerated calendar pursuant to App.R. 11.1 and Loc.App.R. 11.1. The purpose of an accelerated appeal is to allow the appellate court to render a brief and conclusory decision. *Crawford v. Eastland Shopping Mall Assn.* (1983), 11 Ohio App.3d 158.

{¶2} Plaintiff-appellant Matthew Holbrook appeals from the trial court order that granted summary judgment to defendant-appellee Erin McCracken, thus terminating appellant's personal injury action.

{¶3} Appellant was injured when he fell from an indoor rock wall he had climbed for recreation. At the time, appellee was acting as his "belayer," i.e., as appellant descended from his successful climb, appellee reversed the process of taking up slack and instead let out rope for him from the top of the wall through a harness system attached to her body. Appellee stated she thought she "wasn't fast enough" at locking the smooth "new" rope before too much of it slipped through the device on her harness and slackened appellant's line.

{¶4} In his sole assignment of error, appellant argues the trial court improperly determined the doctrine of primary assumption of the risk precluded appellee's liability on appellant's claim. This court disagrees.

{¶5} The Ohio Supreme Court recently reaffirmed the applicability of that

doctrine to recreational activities in *Gentry v. Craycraft*, 101 Ohio St.3d 141, 2004-Ohio-379. In order to gain the thrill associated with rock climbing, the appellant voluntarily assumed the primary and “inherent risk” of the activity, viz., falling. *Blankenship v. CRT Tree*, Cuyahoga App. No. 80907, 2002-Ohio-5354.

{¶6} Therefore, despite appellant’s expert’s opinion that appellee was “reckless” in permitting the rope to slip through her hands, the risk of falling inherent to the activity of rock climbing can be “reduced***[but] cannot be eliminated.” *Vorum v. Joy Outdoor Education Center*, (Dec. 12, 1998), Warren App. No. CA98-06-072. This is especially true when the injury results from simple human error. *Gentry v. Craycraft*, supra, *P. 14.

{¶7} Since there was no evidence that appellee acted either intentionally or recklessly when the rope she held slipped before the harness device could lock it in place, the trial court correctly concluded she was entitled to summary judgment on appellant’s claim.

{¶8} Accordingly, appellant’s assignment of error is overruled.

Judgment affirmed.

It is ordered that appellee recover of appellant costs herein

taxed.

The court finds there were reasonable grounds for this appeal.

It is ordered that a special mandate issue out of this court directing the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

KENNETH A. ROCCO

JUDGE

JAMES J. SWEENEY, P.J. and

DIANE KARPINSKI, J. CONCUR

N.B. This entry is an announcement of the court's decision. See App.R. 22(B), 22(D) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(E) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(E). See, also, S.Ct.Prac.R. II, Section 2(A)(1).

