

IN THE COURT OF APPEALS OF TENNESSEE
EASTERN SECTION

FILED

October 3, 1995

Cecil Crowson, Jr.
Appellate Court Clerk

BONNIE JO MILLER) CUMBERLAND COUNTY
Plaintiff - Appellant) 03A01-9503-CV-00101
v.)
HON. JOHN A. TURNBULL,
JUDGE
THOMAS A. PARKER)
Defendant - Appellee) AFFIRMED AND REMANDED

BONNIE JO MILLER, Appellant, Pro Se
PROCTOR UPCHURCH OF CROSSVILLE FOR APPELLEE

O P I N I O N

Goddard, P. J.

This is a suit by Bonnie Jo Miller against Thomas A. Parker seeking damages for personal injuries as a result of her being struck by an automobile being driven by him

The jury found that Mr. Parker's negligence was 49 percent and Ms. Miller's 51 percent. The Trial Court, in

accordance with McIntyre v. Balentine, 833 S.W2d 52 (Tenn.1992),
entered a judgment dismissing Mr. Miller's suit.

She appeals raising the following issues:

1. Was jury verdict supported by evidence presented?
2. Was jury instructed as to degree of appellant's contributory negligence if any?
3. Was jury instructed that appellee had been criminally convicted of "driving without a license?"
4. Was jury instructed that appellee was not wearing his glasses even though in the deposition he acknowledges that he cannot see at a distance without them?

We are unable to address M. Miller's issues because neither a transcript nor a statement of the evidence is a part of the appellate record, and all of the issues raised require a consideration of the facts.

In light of the foregoing we conclude this is an appropriate case for affirmance under Rule 10(a) of this Court.¹ The Trial Judge is accordingly affirmed and the cause remanded for collection of costs below. Costs of appeal are adjudged against M. Miller.

¹ Rule 10. (a) Affirmance Without Opinion. The Court, with the concurrence of all judges participating in the case, may affirm the action of the trial court by order without rendering a formal opinion when an opinion would have no precedential value and one or more of the following circumstances exist and are dispositive of the appeal:

- (1) the Court concurs in the facts as found or as found by necessary implication by the trial court.
- (2) there is material evidence to support the verdict of the jury.
- (3) no reversible error of law appears.

Such cases may be affirmed as follows: "Affirmed in accordance with Court of Appeals Rule 10(a)."

Houston M Goddard, P. J.

CONCUR:

Herschel P. Franks, J.

Don T. Mc Murray, J.