

**IN THE COURT OF APPEALS OF TENNESSEE
WESTERN SECTION AT NASHVILLE**

**JEFFREY A. THOMPSON, a minor
by his next friend and guardian,
TREIVA GRIFFIN,**

Plaintiff/Appellant,

vs.

JOHN A. DYER,

Defendant/Appellee.

)
) Davidson Circuit No. 93C-3547
)
) Appeal No. 01A01-9604-CV-00146
)

FILED

September 18, 1996

Cecil W. Crowson
Appellate Court Clerk

RULE 10 ORDER AND OPINION

This appears to be a proper matter for consideration pursuant to Court of Appeals Rule 10(a).¹

This is a personal injury action arising out of an automobile accident. Following a trial, the jury returned a verdict in favor of defendant. The sole issue raised by plaintiff is whether the jury verdict was contrary to the weight of the evidence.

We note at the outset that plaintiff has mischaracterized our standard of review on appeal. The pertinent inquiry is not whether the verdict was contrary to the weight of the evidence because appellate courts may not reweigh the evidence on appeal from a jury verdict. Grissom v. Metropolitan Gov't., 817 S.W.2d 679, 684 (Tenn. App. 1991). Where, as here, a trial judge has approved a jury's verdict, our standard of review is whether there is any material evidence to support the verdict. T.R.A.P. 13(d). Thus, we will set aside a judgment on a jury verdict only where the record contains no material evidence to support the verdict. Foster v. Bue, 749 S.W.2d 736, 741 (Tenn. 1988).

From our review of the record, we conclude that there was evidence presented at

¹Rule 10 (Court of Appeals). Affirmance Without Opinion.--(a) 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.

trial from which the jury could have concluded that defendant was not negligent. The trial judge agreed with the jury's determination in this regard and approved the verdict. (TR 57) Accordingly, we find that there exists material evidence in the record to support the judgment below.

The judgment of the trial court is affirmed *in toto*. Costs of this appeal are adjudged against appellant.

HIGHERS, J.

CRAWFORD, P.J., W.S.

CANTRELL, J.
