

**COURT OF APPEALS
DECISION
DATED AND FILED**

January 20, 2000

Cornelia G. Clark
Acting Clerk, Court of Appeals
of Wisconsin

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* WIS. STAT. § 808.10 and RULE 809.62.

No. 99-0849

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

CAROL ROBSON,

PLAINTIFF-APPELLANT,

v.

WAL-MART STORES, INC.,

DEFENDANT-RESPONDENT.

APPEAL from a judgment and an order of the circuit court for Dane County: P. CHARLES JONES, Judge. *Affirmed.*

Before Dykman, P.J., Eich and Roggensack, JJ.

¶1 PER CURIAM. Carol Robson appeals from a judgment in favor of Wal-Mart Stores, Inc. The issue is whether the jury's verdict is supported by credible evidence. We affirm.

¶2 Robson was injured while shopping at Wal-Mart when she slipped and fell on soap spilled on the floor. She brought this negligence action against

the store. After considering the trial testimony of Robson, Wal-Mart employees and other witnesses, the jury concluded that Robson was seventy-five percent negligent and Wal-Mart was twenty-five percent negligent. Robson moved the trial court to change the jury's verdict, but the trial court denied the motion and dismissed the case.

¶3 On appeal, we will not overturn a jury's verdict unless we are "satisfied that, considering all credible evidence and reasonable inferences therefrom in the light most favorable to the party against whom the motion is made, there is no credible evidence to sustain [the verdict]." *Kuklinski v. Rodriguez*, 203 Wis. 2d 324, 331, 552 N.W.2d 869 (Ct. App. 1996). "When there is *any* credible evidence to support a jury's verdict, 'even though it be contradicted and the contradictory evidence be stronger and more convincing, nevertheless the verdict ... must stand.'" *Weiss v. United Fire & Cas. Co.*, 197 Wis. 2d 365, 389-90, 541 N.W.2d 753 (1995) (emphasis in original).

¶4 Robson argues that the jury verdict finding her seventy-five percent negligent was not supported by any evidence. We disagree.

¶5 Robson testified that she was walking more rapidly than usual when she fell. She testified that she was looking up for directions to another area of the store and had not looked down at the store floor at all since separating from her husband about twenty-five feet before the area where she fell. Robson testified that the pink liquid soap was on her shoes and pants after she fell, which suggests that it may have been easily visible before the accident had she glanced down because there was a lot of it on her and, thus, on the floor. Mark Pelowsky, a Wal-Mart employee, testified that he saw a small puddle of the pink detergent about the size of a roll of duct tape when he arrived at the scene of the accident and he

noticed a five-foot trail of droplets of the liquid leading to the puddle. Based on this testimony, we conclude that there is credible evidence to support the jury's verdict that seventy-five percent of the negligence is attributable to Robson.

¶6 Robson argues that her case is factually similar to *Steinhorst v. H.C. Prange Co.*, 48 Wis. 2d 679, 180 N.W.2d 525 (1970), a case in which the supreme court said that a person in a retail store is not expected to use the same degree of lookout as a person on a public street. *See id.* at 686. Be that as it may, Robson did have a duty to use such care and caution as the ordinarily prudent person would usually use under like circumstances. *See Gould v. Allstar Ins. Co.*, 59 Wis. 2d 355, 365-66, 208 N.W.2d 388 (1973). The jury considered this standard, knowing that she was shopping in a store when the injury occurred, and concluded that seventy-five percent of the negligence was attributable to Robson's actions.

By the Court.—Judgment and order affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)5 (1997-98).

