81 Minn. 258
Supreme Court of Minnesota.

ERICKSON
v.
BRONSON et al.

Oct. 23, 1900.

Synopsis

Appeal from district court, Washington county; W. C. Williston, Judge.

Action by Gustaf Erickson against W. G. Bronson and others. From a judgment dismissing plaintiff's complaint at the close of plaintiff's evidence, he appeals. Affirmed.

Syllabus by the Court

Evidence examined, and *held* insufficient to sustain a verdict.

Attorneys and Law Firms

***258** ****988** J. N. Searles, for appellant.

J. C. Nethaway, for respondents.

Opinion

BROWN, J.

Action to recover for injuries inflicted on the person of plaintiff by an alleged vicious bull. The cause was dismissed in the court below at the close of plaintiff's evidence, and plaintiff appeals from a judgment in defendants' favor. ***259** The action was dismissed by the trial court mainly on the ground that the evidence failed to show that the bull was a vicious animal. We have carefully examined the evidence, and agree with the court below. The case cannot be distinguished from Cuney v. Campbell, 76 Minn. 59, 78 N. W. 878. There is no evidence tending to show that the animal was generally vicious or ugly; in fact, it tends to show the contrary. He was permitted to run at large in the defendants' pasture with other cattle, and at no time did he ever offer to assault or injure any of defendants' employés in charge of such cattle, except on one occasion, when he was misused and abused by one of such employés to such an extent as to excite in the animal his instincts of self-preservation. Other employés, including plaintiff, handled and managed him with perfect freedom, and without fear of injury, and at no time was there ever any attempt to attack them. The attack made upon the 'Frenchman' was prompted and caused solely by the misuse and abuse of the animal, and not by reason of a vicious disposition. Such an attack is no evidence of viciousness in the animal (McHugh v. City of New York, 31 App. Div. 299, 52 N. Y. Supp. 623; Lawlor v. French [Sup.] 37 N. Y. Supp. 807), and is insufficient to render the owner liable (Lawlor v. French [Sup.] 37 N. Y. Supp. 807). From a careful examination of the whole record, it is clear to us that the evidence is insufficient to sustain a verdict, and the court was right in dismissing the action. Judgment affirmed.

All Citations

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