

**IN THE COURT OF APPEALS 10/01/96**

**OF THE**

**STATE OF MISSISSIPPI**

**NO. 93-CA-00973 COA**

**THE ESTATE OF JANICE JACKSON (DECEASED), MARY JACKSON,  
ADMINISTRATRIX, THE ESTATE OF MARY GUICE (DECEASED), CLARENCE  
GUICE, ADMINISTRATOR, THE ESTATE OF ELFREDA SHERMAN (DECEASED),  
RUBY SHORT, ADMINISTRATRIX**

**APPELLANTS**

**v.**

**THE ESTATE OF JAMIE L. WILLIAMS (DECEASED), OLIVIA JACKSON WILLIAMS,  
ADMINISTRATRIX**

**APPELLEE**

THIS OPINION IS NOT DESIGNATED FOR PUBLICATION AND  
MAY NOT BE CITED, PURSUANT TO M.R.A.P. 35-B

TRIAL JUDGE: HON. HOWARD Q. DAVIS, JR.

COURT FROM WHICH APPEALED: LEFLORE COUNTY CIRCUIT COURT

ATTORNEY FOR APPELLANTS:

JOHN S KNOWLES, III

ATTORNEY FOR APPELLEE:

ANDREW M. W. WESTERFIELD

NATURE OF THE CASE: WRONGFUL DEATH

TRIAL COURT DISPOSITION: DIRECTED VERDICT GRANTED IN FAVOR OF THE  
APPELLEES

BEFORE THOMAS, P.J., DIAZ, AND PAYNE, JJ.

DIAZ, J., FOR THE COURT:

Mary Jackson (Jackson), administratrix of the estate of Janice Jackson, Clarence Guice (Guice), administrator of the estate of Mary Guice, and Ruby Short (Short), administratrix of the estate of Elfreda Sherman, appeal a directed verdict granted in favor of the Appellee by the Leflore County Circuit Court. The Appellants brought an action against Olivia Jackson Williams (Williams), administratrix for the estate of Jamie L. Williams, for the wrongful death of Janice Jackson, Mary Guice, and Elfreda Sherman. We find from the facts of this case that the Appellee was not negligent as a matter of law, and we affirm the lower court's judgment.

### FACTS

On the morning of March 23, 1991, two vehicles left Itta Betta on their way to Grenada for a church retreat. One of the vehicles was driven by Gladys Fant (Gladys), the other was driven by Jamie Williams (Jamie). Both vehicles were carrying numerous children. The two vehicles proceeded toward Grenada on Highway 8. During their drive, the lead vehicle, driven by Jamie, arrived behind a truck and boat driven by Briley Tomlinson (Tomlinson). Witnesses estimated the speed of the vehicles to be between fifty and sixty miles per hour. The three vehicles began to proceed over a hill when a car topped the hill coming towards them. The approaching vehicle was driven by Jimmy Palmer (Palmer), who was intoxicated and traveling at an excessive rate of speed. Palmer passed Tomlinson's truck and boat, but immediately thereafter, crossed the center line of the road and collided with Jamie's vehicle. The collision resulted in the deaths of the drivers and all the passengers of both vehicles.

### DISCUSSION

The decision to grant or deny a motion for directed verdict is one of law to be made by the trial judge. *Illinois C. R.R. Co. v. White*, 610 So. 2d 308, 314 (Miss. 1992). In considering this motion, the court must look at all the evidence in the light most favorable to the nonmoving party. *Turner v. Wilson*, 620 So. 2d 545, 550-51 (Miss. 1993) (citations omitted). Additionally, the court must decide whether the evidence is "so overwhelmingly against plaintiffs that no reasonable juror could have found in their favor." *White*, 610 So. 2d at 314. This Court takes the same view of the evidence when considering on appeal whether the trial court erred in directing a verdict.

The thrust of the Appellants' argument is that even though the automobile accident was caused by Palmer, Williams contributed to the accident by possibly exceeding the speed limit. Specifically, the Appellants argue that if Williams had not exceeded the speed limit, he would have yet to arrive at the specific spot in the highway where Palmer crossed the center line.

As stated in *Foster v. Bass*, 575 So. 2d 967, 982 (Miss. 1990), the law in Mississippi provides:

An act which merely furnishes the condition or occasion upon which injuries are received, but which does not put in motion the agency by or through which the injuries are inflicted, does not constitute the proximate cause of the harm.

More recently, the Mississippi Supreme Court further explained the rule of intervening cause:

Although one may be negligent, yet if another, acting independently and voluntarily, put in motion another and intervening cause which efficiently thence leads unbroken in sequence to the injury, the later is the proximate cause and the original negligence is relegated to the position of a remote and, therefore, a non-actionable cause. Negligence, which merely furnishes the condition or occasion upon which injuries are received, but does not put in motion the agency by or through which the injuries are inflicted, is not the proximate cause thereof.

*Glorioso* 556 So. 2d 293, 296 (Miss. 1989).

The primary question we must ask is, "did the facts constitute a succession of events so linked together as to make a natural whole, or was there some new and independent cause intervening between the alleged wrong and the injury?" *Breland v. United States*, 791 F. Supp. 1128, 1136 (S.D. Miss. 1990)(citations omitted). Even if Jamie Williams was negligent in driving five to ten miles per hour over the speed limit, it does not necessarily follow that his negligence resulted in the deaths of the occupants of his vehicle. Furthermore, an intervening criminal act such as driving under the influence of alcohol, cannot be reasonably anticipated. See *Touche Ross & Co. v. Commercial Union Ins. Co.*, 514 So. 2d 315, 324 (Miss. 1987). Therefore, the Court concludes that if Jamie exceeded the speed limit by five or ten miles per hour, as a matter of law, he would still not be responsible for the injuries sustained by the passengers riding in his vehicle. The deliberate, intentional, and wrongful actions of Palmer were independent and intervening causes which rendered the accident unforeseeable and Jamie's negligence, if any, nonactionable.

#### CONCLUSION

We hold that the Appellants have failed to prove a cause of action upon which relief could be granted, and the trial court correctly granted the Defendant's motion for directed verdict. Therefore, the judgment of the lower court is affirmed.

**THE JUDGMENT OF THE CIRCUIT COURT OF LEFLORE COUNTY IS AFFIRMED.  
ALL COSTS OF THIS APPEAL ARE TAXED TO THE APPELLANTS.**

**FRAISER, C.J., BRIDGES AND THOMAS, P.JJ., BARBER, COLEMAN, KING,  
McMILLIN, PAYNE, AND SOUTHWICK, JJ., CONCUR.**