

PERSONAL INJURY - NJ SUPREME COURT RULES IN DRAM SHOP CASE

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On June 1, 2011, the New Jersey Supreme Court ruled that an intoxicated patron can sue a bar, liquor store or other liquor establishment for injuries the patron sustained as a result of being served alcoholic beverages causing his intoxication. Voss v. Tranquilino and Tiffany's Restaurant. The patron was injured when his motorcycle collided with an automobile. The patron alleged that a proximate cause of the accident and injuries was the service of alcohol to him while he was visibly intoxicated.

In this case, the attorneys for the bar argued that the drunk driving statute, NJSA 39: 4-50(a) should apply to personal injury actions filed by an intoxicated patron for his injuries. NJSA39: 4-50(a) provides that a driver of a motor vehicle who is convicted or pleads guilty to drunk driving "shall have no cause of action for recovery of economic or non economic loss sustained as a result of the accident." The NJ Supreme Court, affirming the Appellate Division decision, 413 NJ Super 82 (A.D.2010) held that the DWI statute and the Dram Shop statute must be read independently. The Dram Shop statute (NJ Licensed Alcoholic Beverage Server Fair Liability Act, NJSA 2A-1 to 7). Under this statute, the Legislature provided a civil remedy to "[a] person who sustains personal injury or property damage as a result of the negligent service of alcoholic beverages by a licensed alcoholic beverage server may recover damages from a licensed alcoholic beverage server only if 'the server was negligent (i.e. served a visibly intoxicated person,...), the injury was proximately caused by the negligent service of alcoholic beverages, the injury was proximately caused by the negligent service of alcoholic beverages, and the injury was a foreseeable consequence of the negligent service.'" NJSA 2A: 22A-5(a).

The NJ Supreme Court offered the following rationale for its ruling:

“Finally, it is no small matter in our analysis that the bar in subsection 4.5(b) can co-exist with the Dram Shop Act’s deterrence and liability-imposing principles. There is no incompatibility between the two provisions. An intoxicated person is deterred from driving drunk by losing the right to sue under Title 39 for insurance coverage for his injuries. On the other hand, permitting an injured drink driver to file an action against a liquor establishment and its servers for serving a visibly intoxicated patron similarly advances the goal of deterring drunk driving...”