

Judgment rendered August 26, 2026.
Application for rehearing may be filed
within the delay allowed by Art. 2166,
La. C.C.P.

No. 57,037-CA

COURT OF APPEAL
SECOND CIRCUIT
STATE OF LOUISIANA

* * * * *

JAWARA DAVIS	Plaintiff-Appellant
versus	
SHELTON PROPERTIES INC, ET AL	Defendants-Appellees

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Appealed from the
Monroe City Court for the
Parish of Ouachita, Louisiana
Trial Court No. 2025CV00412

Honorable Angie D. Sturdivant, Judge

* * * * *

OFFICE OF ANTHONY J. BRUSCATO	Counsel for Appellant
By: Anthony J. Bruscato	
CHRISTIANSEN LAW FIRM	Counsel for Appellee,
By: Jan Peter Christiansen	Shelton Properties, Inc.
ZAC JOHNSON	In Proper Person

* * * * *

Before PITMAN, STONE, and THOMPSON, JJ.

STONE, J.

This matter arises from the Monroe City Court, the Honorable Angie Sturdivant presiding. Appellant-Plaintiff, Jawara Davis (“Davis”), appeals the trial court’s judgment of dismissal of his damages claim against Shelton Properties, Inc. For the reasons stated herein, we affirm the judgment of the trial court.

FACTS

During the early evening of August 9, 2024, while walking along Filhiol Avenue¹ in Monroe, Louisiana, Davis was unexpectedly chased, attacked and bitten by an unrestrained and unfenced pit bull. The dog ran from the yard of 1000 Filhiol Avenue towards Davis. As Davis began to run away from the dog, he was viciously attacked and bitten inside his left leg (i.e., hamstring). Even after the initial attack, the dog continued to wildly pursue Davis, and he continued to run to prevent further attack and bites.

An adult male at 1000 Filhiol — later determined to be the dog’s owner, Zac Johnson (“Johnson”) — emerged from the premises and hollered at the dog which retreated from attack and returned to the residence. Davis was treated at a local hospital for the injuries sustained from the dog attack.

On February 19, 2025, Davis filed a lawsuit against Johnson and Johnson’s landlord, Shelton Properties (“Shelton”). Davis alleged that Johnson (as owner of the dog) failed to maintain control of his pitbull, allowed the dog to roam freely, failed to leash the dog, and failed to fence (contain) the dog — or otherwise restrain the dog. Davis further alleged that Shelton (as the owner of the premises where the dog was kept) is also liabl

¹ Davis resides on Filhiol Avenue approximately one-half mile from 1000 Filhiol Avenue (where the dog is kept).

for damages because they knew or should have known that Johnson allowed the dog to roam the premises unrestrained.²

A trial was held on August 20, 2025. The court granted judgment in favor of Davis and against Johnson for \$5,000 but dismissed his claims against Shelton.³

DISCUSSION

The plaintiff argues that Johnson violated a Monroe City ordinance by letting the dogs roam at large; that ordinance classifies such as a “nuisance.” The prohibition applies to anyone who “owns, keeps, or harbors” a dog. The plaintiff argues that because Shelton knew Johnson was violating the ordinance, and collected a pet fee from Johnson, Shelton is also liable for the dog bite. Shelton argues that, because he had no actual or constructive knowledge of the dog’s vicious propensity, he cannot be liable.

La C.C. art. 2315 is the fountainhead of tort liability in Louisiana; it states: “Every act whatever of man that causes damage to another obliges him by whose *fault* it happened to repair it.” (Emphasis added.) Fault may be intentional or unintentional. The latter form of fault is called “negligence.” *Farrell v. Circle K Stores, Inc.*, 2022-00849 (La. 3/17/23), 359 So. 3d 467, 473, formulates the elements of negligence as follows:

Under the duty/risk analysis, the plaintiff must prove five separate elements: (1) the defendant had a duty to conform his conduct to a specific standard (the duty element); (2) the defendant’s conduct failed to conform to the appropriate standard (the breach element); (3) the defendant’s substandard conduct was a cause-in-fact of the plaintiff’s injuries (the cause-in-fact element); (4) the defendant’s substandard conduct was a legal cause of the

² Shelton collected a \$395 pet fee from Johnson to keep the dog(s) on the premises.

³ The dismissal of Davis’ claim against Shelton Properties is the basis of this appeal.

plaintiff's injuries (the scope of duty element); and, (5) proof of actual damages (the damages element). *Id.* (citing *Boykin v. Louisiana Transit Co., Inc.*, 96-1932, pp. 8-9 (La. 3/4/98), 707 So.2d 1225, 1230). If the plaintiff fails to prove any one element by a preponderance of the evidence, the defendant is not liable. *Id.* (citing *Mathieu v. Imperial Toy Corp.*, 94-952, p. 4 (La. 11/30/94), 646 So.2d 318, 322).

In relevant part, La. C.C. art. 2321 provides:

A. The *owner* of an animal...is answerable for the damage caused by the animal. However, the owner is answerable for the damage only upon a showing that the owner knew or, in the exercise of reasonable care, should have known that his animal's behavior would cause damage, that the damage could have been prevented by the exercise of reasonable care, and that the owner failed to exercise such reasonable care.

B. Nonetheless, the *owner* of a dog is strictly liable for damages for injuries to persons or property caused by the dog and which the owner could have prevented and which did not result from the injured person's provocation of the dog. (Emphasis added.)

In *Cook v. Depingre*, 49,527 (La. App. 2 Cir. 1/14/15), 161 So. 3d 914, 916, this court explained:

Although a landlord is strictly liable for injuries caused by vices or defects of his building, he is not liable to a third person for injury caused by his lessee's animal. The strict liability of the animal owner under LSA-C.C. art. 2321 cannot be imputed to a nonowner. *A lessor or landowner may be found liable in negligence for injuries caused by a tenant's dog only when the record shows that the lessor or landlord possessed actual knowledge of the animal's vicious propensity.* (Emphasis added; internal citations omitted.)

In *Cook*, we affirmed summary judgment in favor of the landlord due to an absence of evidence that the landlord had actual knowledge of the dog's vicious propensity. *Murillo v. Hernandez*, 00-1065 (La. App. 5 Cir. 10/31/00), 772 So. 2d 868, held that the landlord could not be liable for the tenant's *guest's* dog biting a third party because the landlord had no actual or constructive knowledge of the dog's "vicious propensity," as would be

necessary under La. C.C. art. 2315 or 2316. *Compagno v. Monson*, 580 So. 2d 962, 964 (La. App. 5 Cir. 1991) likewise held that the landlord must have knowledge of the dog's dangerous propensity to be liable for negligence.

La. C.C. art. 667 establishes the cause of action for nuisance; in relevant part, it states:

Although a proprietor may do with his estate whatever he pleases, still he cannot make any work on it, which may deprive his neighbor of the liberty of enjoying his own, or which may be the cause of any damage to him. However, if the work he makes on his estate deprives his neighbor of enjoyment or causes damage to him, *he is answerable for damages only upon a showing that he knew or, in the exercise of reasonable care, should have known that his works would cause damage, that the damage could have been prevented by the exercise of reasonable care, and that he failed to exercise such reasonable care.* Nothing in this Article shall preclude the court from the application of the doctrine of *res ipsa loquitur* in an appropriate case. (Emphasis added.)

Thus, the emphasized language, in effect, requires the plaintiff to prove negligence on the part of the landowner. *Yokum v. 615 Bourbon St., L.L.C.*, 07-1785 (La. 2/26/08), 977 So. 2d 859, reversed a summary judgment granted in favor of landlord whose tenant (a bar) was continually generating noise pollution in violation of city ordinances. The supreme court held that a landowner can be liable for failing to properly address tenant's nuisances under La. C.C. art. 667, but only if the plaintiff makes "a showing that [the landlord] knew or, in the exercise of reasonable care, should have known that his [tenant's] works would cause damage, that the damage could have been prevented by the exercise of reasonable care, and that he failed to exercise such reasonable care." *Id.*

In this case, the plaintiff's failure to prove that, before the dog bite, Shelton knew or had reason to know that the dog in question had a vicious

propensity is fatal to his claim against Shelton. This is so regarding both the ordinary negligence theory and the nuisance theory. La. C.C. arts. 2315 and 667. *Yokum, supra; Murillo, supra; Compagno, supra*. We do not address the question of whether the landlord would be liable if he did know about the dog's vicious propensity before the dog bit the plaintiff.

CONCLUSION

The judgment of the trial court is **AFFIRMED**. All costs of this appeal are taxed to the appellant.

AFFIRMED.