

MASSACHUSETTS APPEALS COURT
No. 2013-P-4321

Bob Dylan
Plaintiff-Appellant

v.

George Clooney
Defendant-Appellee

ON APPEAL FROM A JUDGMENT OF THE
SUFFOLK COUNTY SUPERIOR COURT

BRIEF OF DEFENDANT-APPELLEE,
GEORGE CLOONEY

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STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

Whether the lower court should be overturned as to its decision granting George Clooney summary judgment, and holding him as not liable as a social host for his guest’s reckless drunk driving incident?

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STATEMENT OF THE CASE

1. *Statement of proceedings below*

On January 4, 2013, Bob Dylan, plaintiff and appellant filed his complaint with the Massachusetts Superior Court, Suffolk County. The appellant sued George Clooney, defendant and appellee for social host liability concerning a guest, Lindsay Lohan who was involved in a car accident as a result of her intoxication of alcohol she brought to and drank at the appellee’s house.

On July 10, 2013, the appellee George Clooney moved for summary judgment and the court granted it on August 31, 2013. The court held that there were no genuine issues of material fact as to 1. Whether Mr. Clooney knew or should have known Ms. Lohan was drunk; and 2. Whether Mr. Clooney had “control” over the alcoholic beverages Ms. Lohan drank at the party.

On September 30, 2013, the appellant Bob Dylan appealed the decision to the Massachusetts Appeals Court in Suffolk County, who provided a case number of 2013-P-4321. The appellant claims that the lower court erred when it granted summary judgment to the appellee Mr. Clooney and

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that there are no material issues of fact to go to trial.

1. *Statement of relevant facts*

Twenty-seven-year-old George Clooney just graduated law school, passed the bar and is a new owner of a condominium. He decided to celebrate with a B.Y.O.B., bring your own booze party. He supplied juice, buckets of ice, cups, bottle openers for wine and beer, and two bottles of champagne to share amongst thirty guests. Among his guests, arrived Lindsay Lohan at 8:00 p.m. She brought with her three bottles of Absolut vodka. George’s night was spent greeting the thirty guests, and thus was unable to keep tracking the amounts of alcohol they consumed or distinguish whether they drank alcohol or juice. He knew Lindsay was at the party because he remembered seeing her drink from a cup with unidentifiable liquid, and that she had been dancing. Lindsay left the party at midnight to go home and while on I-93, swerved precariously between lanes and hit the driver Bob Dylan. Bob sustained serious injuries and is suing George.

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SUMMARY OF THE ARGUMENT

The Superior Court properly granted the appellee George Clooney’s summary judgment releasing him of social host liability.

The first element of social host liability “establishes the principle that a host may be liable for injuries to a third person where the host knew or should have known that his guest was drunk and gave him or permitted him to take an alcoholic drink and thereafter, the guest negligently operated a motor vehicle, causing the third person’s injury.” McGuiggan v. New England Tel. & Tel. Co., 496 N.E. 2d 141 (Mass. 1986) In McGuiggan, the hosts who served alcohol did not believe the driver was drunk and were confident to have him drive the other guests home. The driver, Macgee did well driving, but the guest passenger who was drunk, had stuck his head out of the window and was struck by a pole and later died. Since the hosts were unaware of any intoxication, they were not liable for injuries that resulted in the death of the passenger.

The appellee George who greeted thirty guests at his

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house was not in much contact with Lindsay and was unaware of her intoxication of the alcohol she brought herself to drink. Therefore, George lacked the knowledge that Lindsay was drunk to be liable for her leaving to drive recklessly.

 The second element of social host liability “establishes that a social host cannot be liable for injuries to a third person unless the host controlled the liquor provided to the guest who negligently caused the injury.” Ulwick v. DeChristopher, 582 N.E. 2d 954 (Mass. 1991) The host in Ulwick did not supply the alcohol for his B.Y.O.B. party. His guest, Salvatore was observed drinking, mixing drinks and staggering on his feet. The host did not intervene in any way with Salvatore’s drinking and had permitted him in his intoxicated state to drive. Salvatore’s driving consisted of plowing through an oncoming police motorcyclist, seriously injuring him. The court held that the host was not liable for the injuries sustained a motorcycle officer even when he knew the guest who drove was extremely drunk, because he did not supply the alcohol. Here George had only provided two bottles of champagne to split amongst thirty guests and he did not

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serve the alcohol brought and drunk by Lindsay that resulted in her reckless driving. Therefore, George who offered limited alcohol was neither liable for not controlling the guest’s alcohol intake nor liable for not preventing the guest from driving.

George Clooney who did not supply Lindsay Lohan alcohol, was not aware of her intoxication, and would not be liable for controlling her alcohol intake or prevent her from driving intoxicated. Therefore, George is not liable under social host liability for his lack of awareness of Lindsay’s intoxication that he needed to control her drinking and actions, since he did not serve the alcohol she brought and drunk herself.

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