

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 21-13308

Non-Argument Calendar

NANCY GOULD,

Plaintiff-Appellant,

versus

CARNIVAL CORPORATION,

A Panamanian Corporation

d.b.a. Carnival Cruise Line,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

D.C. Docket No. 1:19-cv-20289-JG

Before ROSENBAUM, LUCK, and LAGOA, Circuit Judges.

PER CURIAM:

Nancy Gould sued Carnival Corporation for negligence after she was injured while boarding one its cruise ships due to a physical altercation between two other passengers on the gangway ramp. The district court¹ conducted a bench trial and determined that Carnival was not liable for Gould's injuries for multiple, independent reasons. Among them, the court found that Carnival lacked notice of a risk-creating condition, that even if it had notice it lacked a duty or reasonable time to intervene, and that an intervention would not have prevented Gould's injuries. Gould primarily contests the court's findings as to the issue of notice. But she has not properly challenged other independent grounds for the judgment against her. So we affirm the judgment without addressing the merits of her arguments.

I.

We present the facts as found by the district court following a bench trial, which Gould largely does not dispute. *See Garcia-Celestino v. Ruiz Harvesting, Inc.*, 898 F.3d 1110, 1118 (11th Cir.

¹ A magistrate judge conducted the bench trial and entered final judgment by consent of the parties. *See* 28 U.S.C. § 636(c). For ease of reference, we refer to the magistrate judge as the "district court."

21-13308

Opinion of the Court

3

2018) (“On review after a bench trial, we accept all of the district court's factual findings unless they are clearly erroneous.”).

In May 2018, Gould was a cruise passenger on board the *Carnival Liberty*. On the first full day of the cruise, Gould and her daughter spent part of the day ashore in Nassau, The Bahamas. On their return to the vessel, they were walking behind a man and woman who were arguing on the pier. At some point the man charged at the woman and punched her in the head in front of Gould and her daughter. When this incident occurred, Gould was approximately 40 yards from the passenger gangway ramp connecting the pier and the *Carnival Liberty*. No Carnival employees witnessed this incident.

After the incident on the pier, the man and woman continued walking toward the gangway, and Gould and her daughter followed. Despite the violent incident, Gould did not feel in any danger from the couple. Gould and her daughter entered the gangway behind the couple. The couple resumed their argument on the gangway. They were not yelling, but the argument quickly turned physical. Within a minute of resuming their argument, the man swung at the woman, who attempted to dodge the blow and knocked into Gould, causing her to fall off the gangway and strike her head on the pier below.

Carnival did not have any security officers stationed at the base of the gangway where it connects to the pier. The pier is the responsibility of local port authorities pursuant to Carnival's contractual security plan with the Bahamian Port Authority. Instead,

three security officers were stationed just inside the ship, primarily to verify authorization to board. Carnival was unaware of any physical altercation—either on the pier or the gangway—until after Gould was injured.

II.

Gould sued Carnival for negligence, alleging multiple theories of liability. The district court held a four-day bench trial in April 2021. It then entered judgment in favor of Carnival and made detailed findings of fact and conclusions of law in support. In a 67-page order, the district court systematically explained why, in its view, Gould could not prevail on her negligence claim.

To start, the district court found that Carnival lacked actual or constructive notice of the risk-creating condition, which was an essential element of Gould’s claim. In particular, the court determined that no Carnival crewmember had actual notice of the violent incidents. Not only that, but the court concluded that Carnival had no duty to monitor the pier; rather, that was the responsibility of the Bahamian Port Authority. And it rejected Gould’s argument that Carnival had constructive notice from an incident of violence on a gangway in 2016. In the court’s view, the “risk-creating condition” was the violent man, “not the gangway itself,” so the prior “unrelated fight” was not sufficient to impute notice to Carnival. The court also noted that the risk of violence between two passengers traveling together was present on all parts of the ship. The court concluded that, without notice to Carnival, Gould could not show that Carnival breached a duty to her.

21-13308

Opinion of the Court

5

Even though it found the lack of notice dispositive, the district court went further and made several alternative rulings under the assumption that Carnival had adequate notice. First, it found that the danger posed by the violent passenger was open and obvious to Gould. The court noted that Gould witnessed the violent incident on the pier just before she entered the gangway, so she was aware of the passenger's violent propensities but failed to take any action to protect herself or her daughter.

Second, the district court concluded that, even if Carnival had notice of a risk-creating condition on the gangway, it had no duty to intervene. The court explained that, while Carnival had a duty to "evaluate the situation," an evaluation "would show that no immediate intervention was needed on the gangway ramp." The court noted that Gould felt safe on the ramp even when the couple resumed their argument, so there was "no need to intervene and create a risk on the ramp." Instead, in the court's view, Carnival could have satisfied its duty of reasonable care to Gould by waiting for the man to pass through security before questioning him.

Third, even if Carnival had notice and a duty to intervene, the district court continued, "general maritime law affords Carnival reasonable time to remedy the situation." The court concluded, however, that it was not reasonable to expect Carnival to intervene within the minute it took for the argument to turn violent. The court elaborated that "Carnival Security would have to evaluate the situation, abandon their designated posts, walk

through the narrow, crowded gangway, and successfully intervene with [the man] before he lunged at [the woman]—all in less than a minute.” So for that reason, too, the court found that Carnival was not liable for failing to intervene.

Fourth and finally, the district court determined that, even if Carnival breached a duty to intervene, Gould failed to prove that the lack of intervention proximately caused her injuries. In the court’s view, there was “no evidence supporting the speculative theory that [the violent passenger] would have heeded an admonishment or warning from Carnival or that an intervention would prove effective,” and it could not simply “presume that an intervention by Carnival would have prevented [Gould’s] injuries.” In fact, according to the court, the man’s “erratic behavior indicates that an on-the-gangway admonishment or intervention by Carnival would have had little to no effect” and “may have placed [Gould] and other passengers in *greater* danger.” Thus, the court reasoned that Gould did not prove proximate cause even if she could prove duty and breach.

Concluding that Gould “fail[ed] to prove notice, breach of duty, and proximate cause,” the district court entered judgment in favor of Carnival. This appeal followed.

III.

On appeal, Gould primarily challenges the district court’s findings and conclusions concerning the issue of notice, which she acknowledges is an essential element of her negligence claim. She

21-13308

Opinion of the Court

7

contends that the court erred by (a) failing to make sufficiently detailed findings of fact about prior incidents of violence on Carnival's gangways, and omitting one incident entirely; (b) failing to conclude that the prior incidents were not substantially similar; and (c) requiring evidence that the gangway was riskier than other locations on the ship, and ignoring evidence that it was.

Gould makes a few arguments apart from notice.² She asserts that the court erred to the extent it found Carnival had no duty to monitor safety on the gangway. And she contends that the "failure to position a security officer at the base of the gangway" was the proximate cause of her injuries. In Gould's estimation, "this security officer should have, pursuant to [Carnival's] own policies and procedures for handling domestic disputes, as well as for handling intoxicated individuals, separated the two individuals from the other passengers boarding the gangway."

When an appellant appeals a district court judgment that is based on "multiple, independent grounds," she "must convince us that every stated ground for the judgment against [her] is incorrect." *Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680 (11th Cir. 2014). And "[w]hen an appellant fails to challenge properly on appeal one of the grounds on which the district court based its judgment, [s]he is deemed to have abandoned any challenge of that

² There was some dispute in the district court as to the extent of injuries Gould suffered from the incident, which Gould also raises on appeal, but the district court expressly declined to rule on that issue, so we do not address it further.

ground, and it follows that the judgment is due to be affirmed.” *Id.* An appellant fails to properly brief an issue for appeal when she fails to advance any arguments or cite any authorities to establish that the court’s ruling was in error. *Id.* at 681.

Here, we decline to reach Gould’s arguments on appeal because she has failed to properly challenge independent grounds for the district court’s judgment. Gould primarily disputes the court’s findings on the issue of notice, but the court went on to make several alternative rulings under the assumption that Carnival had notice. So she must convince us that all those grounds were incorrect to obtain reversal. *See id.* at 680. She has not. In particular, the court made three independent rulings that Gould has failed to properly challenge on appeal.

First, the district court found that, while Carnival had a duty to monitor and evaluate safety on the gangway, it was not required to immediately “intervene and create a risk on the ramp.” We see nothing in the court’s order to support Gould’s claim that the court found Carnival had no duty of care with respect to the gangway. Nor do her arguments about proximate cause show error with respect to the court’s ruling that Carnival did not breach a duty to Gould by failing to intervene.

Second, the district court found that Carnival lacked reasonable time to intervene and remedy the situation once the argument

21-13308

Opinion of the Court

9

between the couple resumed on the gangway.³ Gould responds that a security officer stationed at the base of the gangway could have reached the couple within the minute it took for the argument to turn violent. However, she does not identify any error in the court's conclusions that "general maritime law afford[ed] Carnival reasonable time to remedy the situation" and that it was "unreasonable to expect Carnival Security to intervene within less than a minute," even if it would have been physically possible for Carnival to do so.

Third, and finally, the district court determined that, even if Carnival breached a duty to intervene, Gould failed to prove that any invention would have prevented her injuries for purposes of establishing proximate cause. Gould argues that a security officer stationed at the base of the gangway could and should have intervened and separated the two individuals from the other passengers. But she fails to address the court's findings that any intervention likely would have been ineffective and "may have placed Plaintiff and other passengers in greater danger" because of the man's erratic and violent behavior on the narrow gangway.

Because Gould has not "convince[d] us that every stated ground for the judgment against [her] is incorrect," it "follows that

³ To the extent Gould contends that the couple was arguing as they entered the gangway, and so would have alerted a security officer had one been stationed at the base of the gangway, she has not shown that the district court clearly erred in finding that the argument resumed only after they were already on the gangway.

10

Opinion of the Court

21-13308

the judgment is due to be affirmed.” *Sapuppo*, 739 F.3d at 680. Accordingly, we affirm the judgment in favor of Carnival without reaching Gould’s other arguments.

AFFIRMED.