

***Williams v. Fremont Corners, Inc., (2019) Cal.App. LEXIS 645***

Plaintiff did not show that his violent assault was a foreseeable criminal act and he did not prove that the measures he claimed the shopping center should have taken would have prevented his assault.

**FACTS/PROCEDURE**

On March 31, 2012, Plaintiff, Tayler L. Williams, performed with his band at a bar called the Peacock Lounge. The Peacock Lounge leased its space from Fremont Corners, Inc. After the band finished its set around 1:30 a.m., Williams and a friend went outside to the parking lot where they were assaulted. The assault occurred in the parking lot about 15 to 25 feet from the Peacock Lounge entrance. Before Williams entered the scuffle, he said, “I’m not fighting” and “Stop,” but was hit on the left side of his head by an unknown assailant. Williams was knocked out and when he came to, he realized that he had injured his left knee. Williams suffered serious injuries from the attack, including a dislocated left knee and several torn ligaments.

In his complaint, Williams alleged that Fremont Corners owed a duty of care to keep the shopping center premises reasonably safe for the public, including a duty to protect from criminal acts of third parties that were reasonably foreseeable. He alleged that Fremont Corners breached its duty by failing to provide adequate security on the premises, to monitor the parking lot adjacent to the bar, and to properly light the area. Williams claimed the owner of Fremont Corners had sufficient notice of the criminal activities that occurred on the property and that Williams’ assault was reasonably foreseeable. Fremont Corners moved for summary judgment. The trial court granted the motion for summary judgment, finding that the shopping center had no duty to take affirmative measures to discover criminal activity on the premises.

**HOLDING/DISCUSSION**

The Court of Appeal for the Sixth District affirmed the trial court’s holding to grant the Defendant’s motion for summary judgment. In cases involving landowner liability to persons injured on the premises due to the criminal acts of a third party, the courts have identified that landowners have a duty to take reasonable steps to secure common areas against foreseeable criminal acts of third parties that are likely to occur in the absence of such precautionary measures. Courts balance the landowners’ business interests with the patrons’ safety interests by balancing the foreseeability of the harm against the burden (and costs) of the duty to be imposed. Here, Williams argued that Fremont Corners should have security patrolling the area, an employee monitoring the security cameras, and a policy for tenants to report criminal activity on the property.

The court found that Williams’ demands for increased preventative measures were not enough to show the measures would have deterred the assault or prevented the harm. The Court held that hiring additional security or an employee to review security cameras imposed high costs on the landowner for an ill-defined deterrence benefit. Williams alleged there was a heightened foreseeability of criminal activity in the area because the owner of Fremont Corners was aware of three criminal acts, including an assault, that occurred on the property. Although the owner was aware of the increased crowd that patronized the Peacock Lounge and was on notice of the potential for fights, the court reasoned that simply knowing there is a general possibility for raucous bar patrons does not make Williams’ specific parking lot brawl reasonably foreseeable. The court found that Williams could not support the allegations that the assault was reasonably foreseeable and thereby could not establish a legal duty that is required for negligence and premises liability causes of action. Accordingly, the court affirmed the motion for summary judgment and Fremont Corners was entitled to recover its costs on appeal.