

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

WILLIAM J. GIBBS,)	No. ED93205
)	
Respondent,)	Appeal from the Circuit Court
)	of the City of St. Louis
v.)	
)	Honorable Lisa Van Amburg
BLOCKBUSTER, INC.,)	
)	
Appellant.)	Filed: May 18, 2010

Blockbuster, Inc. (Blockbuster) appeals from the trial court's judgment, entered pursuant to the jury's verdict, in favor of William Gibbs (Gibbs) in Gibbs's action against Blockbuster for false imprisonment. The jury found Blockbuster liable for false imprisonment after Gibbs spent four months in jail as the result of statements made by one or more Blockbuster employees to the police. Gibbs was awarded \$2,000,000 in damages.

REVERSED AND REMANDED.

Division Four holds: Although Gibbs made a submissible case on both his claim for false imprisonment and his claim for punitive damages, we find that the trial court erred when it granted Gibbs's motion for partial directed verdict, and ruled as a matter of law, that Jeron Brown (Brown) was an employee of Blockbuster, and was acting within the scope of his employment when Brown provided information to law enforcement authorities that led to Gibbs's arrest. It is a generally accepted rule that a verdict may not be directed in favor of the party having the burden of proof. Brandt v. Pelican, 856 S.W.2d 658 (Mo. banc 1993). Gibbs does not satisfy the narrow exceptions to this rule. Because evidence of Brown's employment was sufficiently disputed, the determination of Brown's employment status was a factual issue to be decided by the jury.

Opinion by: Kurt S. Odenwald, P.J.
Lawrence E. Mooney, J., and George W. Draper III, J., Concur

Attorney for Appellant: Theodore J. Williams, Jr., Lisa A. Larkin, Patrick I. Chavez,
Kevin J. Rejent, Jennifer C. Hansen and Booker T. Shaw

Attorney for Respondent: Joseph R. Dulle, Sam J. Alton and Jeremy A. Salvatori

THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.