NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2013 CA 1818

CHRISTA WRIGHT

VERSUS

THE CITY OF BATON ROUGE AND BATON ROUGE POLICE DEPARTMENT

Judgment Rendered: MAY - 2 2014

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On Appeal from the
19th Judicial District Court,
In and for the Parish of East Baton Rouge,
State of Louisiana
Trial Court No. 580,627

Honorable Todd W. Hernandez, Judge Presiding

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Christa Wright
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Plaintiff-Appellant,
In Proper Person

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BEFORE: KUHN, HIGGINBOTHAM, AND THERIOT, JJ.

HIGGINBOTHAM, J.

Plaintiff-appellant, Christa Wright, appeals from the trial court's judgment in favor of the City Parish of Baton Rouge and the Baton Rouge Police Department, which dismissed her suit with prejudice. For the reasons that follow, we hereby affirm.

On July 21, 2008, Ms. Wright was at the Baton Rouge Police Department headquarters to pay an alarm fee. When she arrived at the building, she went to the second floor where Ms. Ethel Cosey, an employee of the department, walked with her to show her where to go. As they were walking down the hall, Ms. Michelle Iverson, the secretary to the chief of police, opened a door which struck Ms. Wright in the left shoulder.

Ms. Wright testified that as a result of the accident, she injured her left shoulder. On July 21, 2009, Ms. Wright filed suit against the City Parish of Baton Rouge and the Baton Rouge Police Department asserting negligence and premise liability.

The matter proceeded to a bench trial on January 28, 2013. At the conclusion of the evidence, the trial court took the matter under advisement and on June 26, 2013, signed a judgment dismissing Ms. Wright's suit with prejudice.

During trial, Ms. Cosey and Ms. Iverson testified that the door in the building was heavy and could not be opened fast. In the hallway, there was a yellow sign stating "CAUTION DOORS OPEN OUT." Ms. Cosey and Ms. Iverson said that they did not know of any other incidents caused by the door. Further, they both testified that Ms. Wright did not appear to be injured at the time of the accident.

The deposition of Ms. Wright's doctor, Dr. Darryl Peterson, was entered into the record. According to Dr. Peterson's deposition, Ms. Wright attended therapy, received injections and underwent arthroscopic surgery in an effort improve her

shoulder. However, the record also revealed that Ms. Wright was in a prior slip and fall accident in 2004, after which it was recommended she have shoulder surgery and she did not. Subsequent to being hit by the door, Ms. Wright was in an automobile accident about a week before she saw Dr. Peterson. She was taken to the emergency room after the automobile accident and the medical records reflect that she had "injuries/pain" to/in her left shoulder. She did not mention the automobile accident to Dr. Peterson.

It is well settled in Louisiana law that a trial court's findings of fact may not be reversed absent manifest error or unless clearly wrong. **Stobart v. State of Louisiana, Through Department of Transportation and Development**, 617 So.2d 880, 882 (La. 1993). The reviewing court must do more than just simply review the record for some evidence that supports or controverts the trial court's findings; it must instead review the record in its entirety to determine whether the trial court's findings were clearly wrong or manifestly erroneous. The issue to be resolved by a reviewing court is not whether the trier of fact was right or wrong, but whether the fact finder's conclusion was a reasonable one. **Id.** If the findings are reasonable in light of the record reviewed in its entirety, an appellate court may not reverse even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently. **Id.** at 882–883. The manifest error standard demands great deference to the trier of fact's findings, for only the fact finder can be aware of the variations in demeanor and tone of voice that bear so heavily on the listener's understanding and belief in what is said. **Rosell v. ESCO**, 549 So.2d 840, 844 (La. 1989). Thus, where two permissible views of the evidence exist, the fact finder's choice between them cannot be manifestly erroneous or clearly wrong. **Id.**

In the present case, the trial court opined:

> The record is void of any evidence to support a finding by a preponderance of the evidence that the door or the act of opening to

> the outside hallway presented a vice or defect and that vice or defect presented an unreasonable risk of harm. The court also finds that the evidence fails to prove that the [defendant] failed to exercise reasonable care or prove [her] claim under general negligence law.

The record reveals several permissible views of the evidence that would support the trial court's ultimate conclusion that Ms. Wright failed to prove the defendants' negligence. It is not our duty to make any of these factual findings, but rather to determine if there is sufficient evidence to support the trial court's conclusions. Applying this standard to this case, we conclude the trial court was not manifestly erroneous or clearly wrong in finding that Ms. Wright failed to present sufficient competent evidence to carry her burden. See **Seal v. Gaylord**, 97-0688 (La. 12/2/97), 704 So.2d 1161, 1164. We find that a memorandum opinion affirming that judgment is warranted and appropriate in accordance with Uniform Rules-Courts of Appeal, Rule 2-16.1B. All costs of this appeal are assessed to plaintiff/appellant, Ms. Christa Wright.

AFFIRMED.