

**Commonwealth of Kentucky**  
**Court of Appeals**

NO. 2011-CA-001705-MR

MISTY PAULEY, as Mother and Next Friend  
of JAYDEN KRONE, a minor

APPELLANT

v. APPEAL FROM JEFFERSON CIRCUIT COURT  
HONORABLE IRV MAZE, JUDGE  
ACTION NO. 10-CI-005944

ROGER REYNOLDS and  
DANI REYNOLDS

APPELLEES

OPINION  
REVERSING AND REMANDING

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BEFORE: CLAYTON, COMBS, AND THOMPSON, JUDGES.

COMBS, JUDGE: Misty Pauley, next friend of Jayden Krone, appeals from an order of the Jefferson Circuit Court that granted summary judgment to the appellees, Roger Reynolds and Dani Reynolds, husband and wife. The trial court determined (as a matter of law) that the Reynoldses were not liable for the injuries sustained by Krone as a result of his encounter with a pit bull dog that was being kept at their leased premises. We reverse and remand.

The Reynoldses leased real property to Adam Brinley. Brinley's girlfriend, Cathey Montgomery, and their children resided on the property along with Brinley. Brinley and Montgomery also kept a pit bull dog on the premises. They were authorized to do so by the Reynoldses.

On April 20, 2010, Krone visited the Brinley/Montgomery household, and he was invited into the backyard to see the family's new dog. As Krone neared the dog, it clawed his eye and face. Krone underwent two surgeries to repair a torn tear duct and bears a significant scar on his face. On August 23, 2010, Pauley as Next Friend of Krone filed a personal injury action against the Reynoldses as statutory owners of the dog under the provisions of Kentucky Revised Statute (KRS) 258.235(4) and KRS 258.095(5).

Following a period of discovery, the Reynoldses filed a motion for summary judgment. They contended that they were not liable for Krone's injuries since they were merely landlords rather than the owners of the dog. Since it could not be shown that the Reynoldses knew that the dog being kept upon their premises had dangerous propensities, the trial court concluded that they could not be held liable and were entitled to summary judgment. This appeal followed.

The provisions of KRS 258.235(4) create a form of strict liability for the owner of a dog. The statute provides that "[a]ny owner whose dog is found to have caused damage to a person . . . shall be responsible for that damage." KRS 258.235(4). The term *owner* is defined as follows: "'Owner,' when applied to the proprietorship of a dog, includes every person having a right of property in the dog

and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him. . . .” KRS 258.095(5).

The Supreme Court of Kentucky recently addressed whether a landlord can be held liable under the statutory scheme’s broad definition of “owner.” In the divided opinion recently issued in *Benningfield v. Zinsmeister*, 367 S.W.3d 561 (Ky.App. 2012), a majority of the Court noted that the statute must be accorded its plain meaning. The Court observed as follows:

[The statute] has no ambiguity and plainly states that a person who permits a dog to remain on premises he owns shall be deemed an *owner*. . . .

The Court held that a landlord who permits a dog to remain “on or about” his premises will be liable for any damage the dog causes to a person. As a statutory owner of his tenant’s dog, the statute imposes liability upon landlords for the damage caused.

In light of the recent decision of the Supreme Court of Kentucky, the judgment of the Jefferson Circuit Court must be reversed. Accordingly, the matter is remanded for further proceedings.

CLAYTON, JUDGE, CONCURS.

THOMPSON, JUDGE, DISSENTS.

BRIEF FOR APPELLANT:

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BRIEF FOR APPELLEES:

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