

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

December 12, 1996

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 96-2164-FT

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

JEFFREY R. HUNDT,

Plaintiff-Appellant,

RURAL SECURITY LIFE INSURANCE COMPANY,

Plaintiff,

v.

STATE FARM GENERAL INSURANCE COMPANY,

Defendant-Third Party Plaintiff,

v.

**RURAL MUTUAL INSURANCE COMPANY, ROGER J.
HUNDT,**

Third Party Defendants.

APPEAL from a judgment of the circuit court for La Crosse County: DENNIS G. MONTABON, Judge. *Affirmed.*

Before Dykman, P.J., Vergeront and Roggensack, JJ.

PER CURIAM. Jeffrey Hundt appeals from a judgment entered on a jury verdict finding him 55% causally negligent of his own injury, which he sustained by falling down a silo chute. For the reasons set forth below, we affirm.¹

Hundt, his father and his uncle were hired to fill a silo on a neighboring farm. Hundt volunteered to climb a silo chute in order to manipulate an auger in the silo. While attempting to climb the silo chute, he fell thirty feet, causing him serious injury. He brought suit on the theory that the farm's owner had negligently failed to latch a silo door, causing his injuries. After a trial, the jury apportioned 45% negligence to the farm owner and 55% negligence to Hundt. Hundt appeals, arguing that no credible evidence sustains the jury verdict. We disagree.

We must sustain a jury verdict if any credible evidence supports it. *Fehring v. Republic Ins. Co.*, 118 Wis.2d 299, 305-06, 347 N.W.2d 595, 598 (1984). The jury here heard evidence that one climbing a silo ought to feel the latch on each door above to ascertain that it is closed. The jury also heard that the chute was dirty, that it was dark, and that Hundt was climbing with only one hand, using the other to carry a short-handled hoe. Further, the jury had the benefit of several witnesses who also described the silo climbing procedure. This was sufficient evidence from which a reasonable jury could come to the conclusion it did. *Id.* at 305-06, 347 N.W.2d at 598.

By the Court.—Judgment affirmed.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.

¹ This is an expedited appeal under RULE 809.17, STATS.