

A pedestrian was walking on a crowded public path when she was struck by a speeding bicyclist who swerved wildly to avoid a jogger. As a result, the pedestrian suffered a dislocated vertebra in her spine that would have required several months of treatment to completely heal. The jogger, who witnessed the accident, had no medical training but believed in good faith that it was medically necessary to lift the pedestrian's head and slip his jacket underneath. This unnecessary act resulted in additional damage to the pedestrian's spine that left the pedestrian permanently unable to walk.

This jurisdiction has enacted the following Good Samaritan statute: "Any person who in good faith renders gratuitous emergency medical care or assistance shall not be liable for civil damages for any act or omission, not amounting to gross negligence, in rendering such aid."

In a suit against both the bicyclist and the jogger for negligence, is the pedestrian likely to prevail?

- A. No, because the jogger's act is protected by the statute and is a superseding cause that cut off the bicyclist's liability.
- B. Yes, but only against the bicyclist because the jogger's conduct was a foreseeable intervening cause.
- C. Yes, but only against the jogger because his gross negligence actually caused the pedestrian's enhanced injury.
- D. Yes, since both the bicyclist and the jogger are jointly and severally liable for the pedestrian's injury.

Explanation:

Standards of care for negligence

Adult	Must act in same manner as ordinary, reasonable adult in similar circumstances Standard adjusted for physical disabilities, superior skill & knowledge, involuntary intoxication Standard not adjusted for mental & emotional disabilities, voluntary intoxication
Professional	Must demonstrate same knowledge, skill & care as another professional in similar community National (not community) standard applied to medical specialists*
Child	Must act in same manner as reasonable child of same age, intelligence & experience Adult standard applied to children engaged in dangerous adult activity Children under five years old incapable of negligence

*A modern trend applies a national standard of care to *all* physicians.

A plaintiff will prevail on a **negligence claim** if four elements are established: duty, breach, causation, and damages. Duty refers to the obligation to protect another against unreasonable risk of injury. The **duty of care** imposed on a defendant is that of a **reasonably prudent person** under the **circumstances**—ie, one in the defendant's **same position**, with the **same information** and **level of competence**.

Here, the bicyclist breached the duty of care by speeding and swerving wildly to avoid a jogger since a reasonably prudent person would ride in a controlled manner. Since that breach caused the bicyclist to hit and injure the pedestrian, the bicyclist is liable for negligence.

The jogger's attempted aid did not negate the bicyclist's liability because it was not a superseding cause—ie, an *unforeseeable* intervening event that breaks the chain of proximate causation *between* the defendant's tortious act and the plaintiff's harm. Instead, the jogger's intervention was foreseeable and occurred *after* the plaintiff's injury (**Choice A**).

This foreseeable intervention would make the jogger jointly and severally liable to the plaintiff if his actions were negligent. But **less may be expected** of a reasonably prudent person forced to **act in an emergency** such as this one—so long as the defendant's conduct did not cause the emergency.*

Here, the jogger acted as a reasonably prudent person during this emergency by rendering aid to the injured pedestrian. Therefore, the jogger did not breach a duty of care—and is not liable for negligence—even though his aid exacerbated the pedestrian's injuries. Even if the jogger had been negligent, he would have been shielded by the jurisdiction's Good Samaritan statute since his actions did not amount to gross negligence. As a result, the pedestrian will not prevail against the jogger **(Choices C & D)**.

*But if the defendant's conduct created the emergency, then the defendant may be liable for failing to rescue the plaintiff from that situation even if a reasonably prudent person would not have been expected to do so.

Educational objective:

The duty of care imposed on a defendant is that of a reasonably prudent person under the circumstances—ie, one in the defendant's same position, with the same information and level of competence. Therefore, less may be expected of a reasonably prudent person acting in an emergency.

References

Restatement (Second) of Torts § 283 (Am. Law Inst. 1981) (reasonable-man standard).