

RENDERED: November 21, 1997; 10:00 a.m.
NOT TO BE PUBLISHED

NO. 96-CA-1933-MR

REBECCA WALKER

APPELLANT

v.

APPEAL FROM BARREN CIRCUIT COURT
HONORABLE BENJAMIN L. DICKINSON, JUDGE
ACTION NO. 94-CI-00009

STACEY BUTLER

APPELLEE

OPINION

AFFIRMING

*** *** *** ***

BEFORE: COMBS, EMBERTON, and MILLER, Judges.

MILLER, JUDGE: Rebecca Walker brings this appeal from a June 11, 1996 order of the Barren Circuit Court. We affirm.

This case arose from a motor vehicle accident that involved appellant, who was a passenger in a vehicle operated by appellee, Stacey Butler. Apparently, appellee had executed a left turn when a vehicle driven by one Brian Gibson struck her car on the passenger's side.

On January 5, 1996, the Barren Circuit Court entered judgment, based upon a jury verdict, dismissing appellant's tort action against appellee. The jury unanimously found that appel-

lee was not negligent in the operation of her vehicle. Thereafter, appellant moved for a new trial. Ky. R. Civ. P. 59.01. The circuit court overruled appellant's motion. This appeal follows.

Appellant contends that the circuit court erred in overruling her motion for a new trial. Specifically, she asserts that the jury's verdict was, upon the evidence, erroneous. We agree with the circuit court. The evidence did not compel a finding contrary to the jury's verdict absolving appellee of negligence. The evidence revealed that on the day of the accident the roadway was slick with rain. There was testimony that appellee pulled to the stop sign at the intersection of Davis and North Green Streets, stopped, and looked both ways before turning. There was an indication that the other driver might have been speeding. Upon the whole, we believe the jury's finding that appellee was free of fault did not constitute reversible error. It is the jury's function, of course, to determine issues of fact where the evidence conflicts, and, although the court has broad discretion in granting a new trial, it may not set aside the jury's decision simply because it disagrees with the determination. See Woods v. Asher, Ky., 324 S.W.2d 809 (1959).

We deem appellant's remaining contention moot.

For the foregoing reasons, the order of the circuit court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

William Thomas Klapheke II
Glasgow, KY

BRIEF FOR APPELLEE:

Thomas N. Kerrick
Lanna Martin Kilgore
Bowling Green, KY