

Thomas v National Union of Mineworkers [1986]

The case reviews the tort of nuisance and what types of threats constitute an assault.

Evidence

The National Union of Miners organized multiple strikes on the worksite. Meanwhile, the claimant refused to participate in strikes; instead, he was willing to continue working in the mines. Thomas and other workers who did not want to strike were forced to go to work on a bus to avoid attacks from an aggressive crowd. The defendant who organized the strike, along with other people, threatened Thomas and his colleagues and made violent gestures towards workers on the bus. Nevertheless, the police officers were present during these manifestations of aggression and stood between the bus and the striking workers. Moreover, Thomas and other workers were protected by the bus.

Problematics

Although the defendant did not carry out his threats immediately, the court had to establish whether this type of aggressive behavior could be interpreted as an assault.

Resolution

The court decided that the actions of the defendant and striking workers could not be interpreted as an assault because they were unable to carry out their threat immediately. The capability of a person to deliver a threat is the essential aspect of the tort of assault. Nevertheless, the actions of the defendant were regarded under the tort of nuisance. The defendant and striking crowd blocked the path of Thomas and interfered with his right to attend work without harassment.

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