

**FIRST DIVISION
BARNES, P. J.,
MARKLE and HODGES, JJ.**

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August 28, 2026

In the Court of Appeals of Georgia

A26A1103. CAMPBELL v. SMITH.

MARKLE, Judge.

In this renewal action, Doris Campbell sued Clinton Taylor and his mother, Susan, for injuries she sustained while attempting to assist her own mother, who was attacked by Clinton in Susan's home.¹ The trial court granted summary judgment to Susan, finding that Campbell assumed the risk because she knew that Clinton was violent when she arrived at Susan's house. Campbell now appeals. For the reasons that follow, we affirm.

¹ Susan Taylor died after the lawsuit was filed, and the administrator of her estate, Kaye Smith, has been substituted as a defendant. For clarity, we refer to the defendant-appellee as Susan.

“We review a grant or denial of summary judgment de novo and construe the evidence in the light most favorable to the nonmovant.” *Mejia v. SK Battery Am.*, 379 Ga. App. 231, 231 (925 SE2d 772) (2026) (quotation marks omitted). To be entitled to summary judgment, the movant must show that there is “no genuine issue of material fact and that the undisputed facts, viewed in the light most favorable to the nonmoving party, warrant judgment as a matter of law. *Fun Spot Am. of Atlanta v. Johnson*, 371 Ga. App. 123, 123 (899 SE2d 766) (2024) (quotation marks omitted).

So viewed, the record shows that, one afternoon in July 2017, Campbell was having lunch when her disabled mother, Carolyn Goslin, called her from Susan’s house. Carolyn was upset and crying because her boyfriend, Clinton, had attacked her. This was not the first time Clinton had attacked Carolyn; he had done so a week earlier, after which Campbell insisted Carolyn file a police report.

When she got the phone call from her mother, Campbell immediately drove across town to Susan’s house. She did not call 911 on her way because she did not know Susan’s exact address. Instead, she continued to talk to her mother on her cell phone until the call dropped. She then called a friend and told him where she was going.

Once Campbell arrived at Susan's house, she could see Clinton inside, preventing her mother from leaving. Campbell began pounding on the door and, as she dialed 911, Clinton opened the patio door enough to reach out and grab her by the throat. He continued to choke her as he pushed her backward onto the concrete patio and tackled her. Campbell's leg became twisted under her body. Susan then appeared, ordered Clinton to move, and asked Campbell not to call police because Clinton was having a "mental break." Unable to walk, Campbell crawled across the front yard to the mailbox in order to give police the address. Eventually the police came and arrested Clinton. Campbell required surgery to repair her leg.

Campbell sued Clinton and Susan for negligence. Susan moved for summary judgment, arguing that the injuries were unforeseeable due to an intervening criminal act, and she assumed the risk of injury because she knew Clinton was acting violently when she came to the house. Following a hearing, which was not transcribed, the trial court granted summary judgment in Susan's favor, concluding that Campbell had assumed the risk. The trial court did not consider the alternate ground of an

intervening criminal act. The trial court then entered final judgment under OCGA § 9-11-54(b).² Campbell now appeals.

In her sole enumeration of error, Campbell argues that the trial court erred by granting summary judgment because she did not assume the specific risk that Clinton would attack her. She further asserts that the emergency doctrine applies and bars any application of assumption of the risk. We are not persuaded.³

Campbell's claims against Susan are premised on the theory that Susan failed to keep Campbell safe from a known danger. "It is well established that to recover for injuries caused by another's negligence, a plaintiff must show four elements: a duty, a breach of that duty, causation and damages." *Ware v. Jackson*, 357 Ga. App. 470, 476(2) (848 SE2d 725) (2020) (quotation marks omitted). Where, as here, the parties agree that the plaintiff was a licensee, the duty requires that the owner not injure the licensee wilfully or wantonly. *Stanton v. Griffin*, 361 Ga. App. 205, 209(2) (863 SE2d 548) (2021).

² The claims against Clinton remain pending

³ We decline to reach the alternate ground of intervening criminal act because, although the issue was raised before the trial court, the court did not rule on it and the issue has not been well-briefed on appeal. See *Perry v. Emory Healthcare Svcs. Mgmt.*, 374 Ga. App. 41, 47-48 (911 SE2d 229) (2025).

Nevertheless, a property owner will not be liable for damages if the plaintiff assumed the risk of injury.

Assumption of the risk is an affirmative defense and applies when the plaintiff, with a full appreciation of the danger involved and without restriction of [her] freedom of choice either by the circumstances or by coercion, deliberately chooses an obviously perilous course of conduct. A defendant asserting assumption of the risk must establish three elements: that the plaintiff (1) had knowledge of the danger; (2) understood and appreciated the risks associated with such danger; and (3) voluntarily exposed [herself] to those risks. Questions related to the existence and extent of either party's knowledge should be decided as a matter of law only when the evidence of that knowledge is plain, palpable, and undisputed. Thus, assumption of the risk is not ordinarily subject to summary adjudication, except where the evidence shows clearly and palpably that the jury could reasonably draw but one conclusion — that the plaintiff assumed the risk of [her] injuries. In examining [the injured's] knowledge of the danger, this requirement does not refer to a comprehension of general, non-specific risks. Rather, the knowledge that a plaintiff who assumes the risk must subjectively possess is that of the specific, particular risk of harm associated with the activity or condition that proximately causes injury.

Mejia, 379 Ga. App. at 233 (citation modified). See also *Knight v. Senoia Raceway Mgmt.*, 369 Ga. App. 798, 800(1) (894 SE2d 621) (2023); *Worth v. First Key Homes*, 367 Ga. App. 762, 764 (888 SE2d 360) (2023).

We have repeatedly held that a plaintiff who joins an altercation assumes the risk of injury. “In the absence of anything to the contrary, every adult is presumed to possess such ordinary intelligence, judgment, and discretion as will enable her to appreciate obvious danger. Hence, an adult of ordinary intelligence will be held to be aware of manifest risk or danger of possible injury when she deliberately and voluntarily joins in an affray, as a matter of law.” *Soundara v. AMB Sports & Ent.*, 371 Ga. App. 285, 291(1) (899 SE2d 428) (2024) (citation modified) (plaintiff injured when she attempted to help friends who were involved in a fight). See also *Fagan v. Atnalta, Inc.*, 189 Ga. App. 460, 460-61 (376 SE2d 204) (1988) (plaintiff at a bar “thrust himself into the melee” after a man grabbed a bartender by the collar); *Cornelius v. Morris Brown College*, 299 Ga. App. 83, 86(3) (681 SE2d 730) (2009) (plaintiff joined a fight already underway).

We find this precedent applicable to Campbell’s case. Campbell knew that Clinton was attacking her mother; she knew that Clinton was preventing her mother

from leaving; and she knew Clinton was violent and had been violent with her mother in the past when she made the decision to intervene. She also admitted in her deposition that she did not call police on her way to Susan's home despite her knowledge that Clinton was violent.

On this record, the trial court properly concluded that Susan established as a matter of law that Campbell appreciated the risks that Clinton would attack her. *Soundara*, 371 Ga. App. at 291(1); *Fagan*, 189 Ga. App. at 460-61; *Cornelius*, 299 Ga. App. at 86(3). Notably, Campbell points to nothing to dispute her knowledge that Clinton was dangerous. Rather, she argues only that she had no knowledge that Clinton would attack *her* because he had never done so before. As noted above, however, the “plain, palpable, and undisputed” evidence here shows that Campbell was aware of the danger of intervening in the altercation between Clinton and her mother. *Mejia*, 379 Ga. App. at 233; *Soundara*, 371 Ga. App. at 291(1); *Knight*, 369 Ga. App. at 800(1). As a result, Susan was entitled to summary judgment.

Campbell nevertheless argues that she should not be held to have assumed the risk under the sudden emergency doctrine. But the sudden emergency doctrine would not apply here.

Pretermitted whether a plaintiff can use the sudden emergency doctrine as a defense to assumption of the risk, she cannot show that her actions were the result of circumstances in which there was no time for thought. *Ware v. Alston*, 112 Ga. App. 627, 630(1) (145 SE2d 721) (1965). Cf. *Buford v. Benton*, 232 Ga. App. 102, 103(1) (501 SE2d 272) (1998) (“A plaintiff may also use the doctrine of sudden emergency as a defense in connection with the issue of comparative negligence.”). The facts do not present the type of circumstances that trigger a sudden emergency. Although Campbell was understandably worried and rushing to get to her mother, she had time to drive across town and speak to a friend in the time between her mother’s call and her arrival at Susan’s house. Thus, Campbell did not have to make the choice to intervene quickly, and the emergency doctrine would not apply as a matter of law. See *Davis v. Calhoun*, 128 Ga. App. 104, 105-107(1) (195 SE2d 759) (1973). Compare *Ware*, 112 Ga. App. at 630(1) (emergency doctrine applied because driver’s sudden brake failure caused accident). To the extent that Campbell meant to argue the application of the rescue doctrine, she did not raise that argument in the trial court or in her briefs on appeal; thus, it is not properly before us.⁴ *Cohran v. Carlin*, 254 Ga.

⁴ During oral argument, counsel explained that he really meant the rescue doctrine. But the emergency doctrine and rescue doctrine are different.

580, 584(1) (331 SE2d 523) (1985); *Alexander v. Francis*, 369 Ga. App. 580, 590(3), n. 41 (894 SE2d 161) (2023). Accordingly, the trial court properly granted summary judgment to Susan, and we affirm.

Judgment affirmed. Barnes, P. J., and Hodges, J., concur.

The rescue doctrine applies when the defendants' negligent acts or omissions have created a condition or situation which involves imminent and urgent peril to life and property. In such instances, those negligent acts or omissions are also negligent in relationship to all others who, in the exercise of ordinary care for their own safety under the circumstances, attempt to rescue the endangered life or property by reasonably appropriate means. The doctrine of rescue necessarily contemplates an assumption of the risk inherent in the peril created by the defendants' negligence and allows recovery for injuries thereby incurred, for the reason that the defendants were charged with the foreseeability of their negligence attracting rescuers to assume the risks. The doctrine, however applies only if the plaintiff was acting simply as a volunteer or bystander.

Ga. Power Co. v. Brandreth Farms, LLC, 364 Ga. App. 816, 826(4) (875 SE2d 444) (2022) (citation modified). As noted, there is no argument in the brief or trial court about the rescue doctrine.