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Halliday v. Sturm, Ruger & Co.: **The Risk Utility Test Does Not Apply to Design Defects Unless the Product Malfunctioned**

By: Allisan Pyer

The Court of Appeals of Maryland held the risk-utility test does not apply in strict liability design defect cases unless the product in question malfunctions. *Halliday v. Sturm, Ruger and Co., Inc.*, 368 Md. 186, 208, 792 A.2d 1145, 1158 (2002). Moreover, the court concluded common-law principles of strict liability shall not contradict the public policy set forth by the Maryland General Assembly. *Id.* The Legislature chose not to change the strict liability burden on handgun manufacturers. *Id.*

The tragic death of Jordan Garris in June 1999 gave rise to the litigation between Jordan's mother, Melissa M. Halliday ("Halliday") and Sturm, Ruger and Company, Inc. ("Sturm Ruger"). Jordan's father, Clifton Garris ("Garris") purchased a Ruger P89 semi-automatic handgun in March 1999 from On Target, Inc., a retail firearms store. The handgun came with an instruction manual, a free handgun safety course (which Garris declined), a pamphlet (published by the Federal Bureau of Alcohol, Tobacco, and Firearms entitled "Youth Handgun Safety Act Notice,") and a lock box with a padlock to store the handgun and magazine. The instruction manual provided warnings and instructions regarding the storage and use of the

handgun. On the cover of the manual, and embossed on the barrel of the handgun, was a caution to read the manual before using the handgun.

Garris disregarded the warnings and failed to safely store the handgun. Rather, the handgun was stored under his mattress and a loaded magazine was left on a bookshelf in the same room. Both the handgun and magazine were visible to Jordan and he knew how to load the handgun. While playing with the handgun, Jordan shot himself and subsequently died of injuries from the gunshot two days later. Halliday sought to hold the manufacturer of the handgun, Sturm Ruger, responsible for Jordan's death.

Halliday filed suit in the Circuit Court for Baltimore City against Sturm Ruger and On Target for the death of her son, Jordan Garris. The suit alleged the handgun was defectively designed and contained inadequate warnings. Sturm Ruger responded to the complaint with a motion to dismiss or, in the alternative, a motion for summary judgment.

The Circuit Court for Baltimore City held, based on Maryland law, the risk-utility test applied only when the product malfunctioned and the handgun

purchased by Garris did not malfunction. The circuit court concluded Garris clearly knew the handgun was dangerous and granted summary judgment in favor of Sturm Ruger.

The court of special appeals upheld the decision of the circuit court, holding the risk-utility test applies only when a product malfunctions. The alleged design defect should be considered under the risk-utility analysis. The court of special appeals concluded the consumer expectation test is no longer valid Maryland law. The majority, however, recognized the argument concerning whether the warnings were adequate was irrelevant. Halliday argued no warnings would be adequate to make the handgun safer except for the inclusion of child-resistant devices on the handgun.

Halliday raised four questions before the court of appeals. First, Halliday urged the court to abandon the consumer expectation test and adopt a risk-utility test in strict liability actions based on design defects. *Id.* at 200, 792 A.2d at 1153-54. Second, Halliday requested, when applying the test, the court not require a product malfunction as a prerequisite or the use of a handgun by a three-year-old be considered a malfunction.

Id. Third, Halliday requested the court not allow an exception to the risk-utility test for handguns. *Id.* Fourth, Halliday argued Garris's conduct in leaving the handgun and magazine accessible to Jordan was foreseeable, it was not a misuse of the product and further urged the warning given in the instruction manual did not shield Sturm Ruger from liability. *Halliday*, 368 Md. at 200, 792 A.2d at 1153-54.

The court of appeals began its analysis by reviewing the consumer expectation test and the risk-utility test. The consumer expectation test derives from Section 402A of the Restatement (Second) of Torts. *Id.* at 194, 792 A.2d at 1150. A defectively dangerous product is defined as one that "is dangerous to an extent beyond that which would be contemplated by the ordinary consumer who purchased it with the ordinary knowledge common to the community as to the product's characteristics." *Id.*

The risk-utility test, unlike the consumer expectation test, is applied in situations in which a safer alternative design was feasible and would alter the balance by reducing the danger of the product. *Id.* at 194, 792 A.2d at 1150. This test considers a product defective and unreasonably dangerous if the danger presented by the product outweighs its utility. *Id.* The court concluded that for a manufacturer to be liable to the consumer the product must be both in a "defective condition" and "unreasonably dangerous" at the time the product entered the market. *Id.* at 195, 792

A.2d at 1150.

Maryland cases concerning strict liability generally applied the consumer expectation test in design defect cases when there was no malfunction. *Halliday*, 368 Md. at 197, 792 A.2d at 1152. The court previously concluded, "a handgun manufacturer or marketer could not be held liable under this [risk-utility] theory." *Id.* at 197, 792 A.2d at 1152. (*quoting Kelly v. R. G. Indus., Inc.*, 304 Md. 124, 497 A.2d 1143 (1985)). The court explained, "a handgun is not defective merely because it is capable of being used during criminal activity or to inflict harm." *Id.* The court previously concluded, "to impose strict liability upon the manufacturers or marketers of handguns for gunshot injuries resulting from the misuse of handguns by others would be contrary to Maryland public policy as set forth by the Legislature." *Id.* at 198, 792 A.2d at 1152.

The court of appeals applied the consumer expectation test to the case at hand. *Id.* at 208, 792 A.2d at 1158. The court concluded there was no cause of action in the case and further found the handgun did not malfunction, but unfortunately performed as designed and intended. *Id.* The cause of Jordan's tragic death, the court concluded, was the carelessness of his own father, Garris, in leaving the handgun and magazine in Jordan's view and failing to heed the warnings given to him at the time he purchased the handgun. *Halliday*, 368 Md. at 208, 792 A.2d at 1158.

The court of appeals refused to modify precedent and impose liability on handgun manufactures who fail to safely add devices to handguns that would make them childproof. *Id.* at 208, 792 A.2d at 1150. The court of appeals recognized common-law principles should not be changed to contradict the public policy of the State set forth by the General Assembly of Maryland. *Id.* The court stated the Maryland Legislature has chosen not to impose burdens on handgun manufacturers and chose to deal with the problem in other ways. *Id.* at 208, 792 A.2d at 1150. The court of appeals respected the decision by the Legislature and rejected the contentions made by Halliday to change the consumer expectation test standard.

The court of appeals holding in *Halliday* supports both the rights of Maryland citizens to own and safely use handguns, as well as the rights of manufacturers to sell handguns. Opponents to private handgun ownership have repeatedly attempted to impose the risk-utility standard. The court of appeals' decision not to impose the risk-utility standard for handguns clearly articulated that anti-gun supporters will not prevail and handgun manufacturers will not be liable for the carelessness of handgun owners. The decision by the court of appeals will undoubtedly make handgun owners more responsible for their actions or inactions regarding handgun ownership.