

Frederic Thomas JONES *v.* Raymond CANON

84-76

669 S.W.2d 7

Supreme Court of Arkansas
Opinion delivered May 21, 1984

1. TRIAL — TRIAL COURT DETERMINES WEIGHT OF EVIDENCE AND CREDIBILITY. — It is for the trial court to determine the weight of the evidence and the credibility of the witnesses.
2. DAMAGES — AMOUNT OF DAMAGES IS QUESTION FOR TRIER OF FACT. — The amount of damages, both compensatory and punitive, is a question for the trier of fact.
3. DAMAGES — AWARD OF PUNITIVE DAMAGES IN ASSAULT CASE. — Punitive damages may be awarded in an assault case where the assault was unwarranted or with malice aforethought.

Appeal from Pulaski Circuit Court, Sixth Division;
David B. Bogard, Judge; affirmed.

Hubert W. Alexander, for appellant.

Wilson & Nixon, P. A., by: *Walter W. Nixon*, for appellee.

DARRELL HICKMAN, Justice. This is an appeal of a civil suit for assault and battery. The trial judge, sitting as a jury, found that Frederick Thomas Jones, the appellant, committed an assault and battery on Raymond Canon and awarded Canon \$525.00 compensatory and \$1,000.00 punitive damages. We affirm the judgment.

Jones bought a used van from T.W. Davis at Cash Auto Sales in Jacksonville for \$1,000.00. T.W. and Evelyn Davis owned the business. Canon shared space and expenses but had his own cars to sell. A month later, Jones returned, unhappy with the deal he had made. Jones asked Davis to repurchase the van for \$1,500.00 to cover his costs in repair. Davis refused. Jones picketed the business with signs on the van, one of which read: "Cash Auto Sales-\$1,500 sold me this piece of junk."

On October 12, 1982, at a nearby Dairy Queen, a

confrontation occurred involving Jones, Mrs. Davis and Canon. Essentially Canon said that Jones, without any provocation, hit him in the head with a rock; Mrs. Davis corroborated Canon's story, and Jones denied it. Canon had medical expenses of \$25.00 and six days lost work (estimated income of \$1,000 — \$1,500 per week.)

It was for the trial court to determine the weight of the evidence and credibility of the witnesses. We cannot say there was no substantial evidence to support the finding of wrong or award of damages. The amount of damages, both compensatory and punitive, was a question for the trier of fact. *Robertson v. Sisk*, 115 Ark. 461, 171 S.W. 880 (1914). Punitive damages may be awarded in an assault case where the assault was unwarranted or with malice aforethought. *Collier v. Thompson*, 180 Ark. 695, 22 S.W.2d 562 (1929).

We find no legal reason to question any finding below.

Affirmed.
