

**IN THE COURT OF APPEALS OF IOWA**

No. 6-925 / 06-0370  
Filed February 28, 2007

**COURTNEY ALEXIS ASKVIK,  
ADMINISTRATOR OF THE ESTATE OF  
LYLE DOUGLAS ASKVIK,**  
Plaintiff-Appellant,

**vs.**

**STATE OF IOWA,**  
Defendant-Appellee.

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Appeal from the Iowa District Court for Boone County, David R. Danilson,  
Judge.

The administrator of Lyle Askvig's estate appeals the district court's grant  
of summary judgment for the State of Iowa. **AFFIRMED.**

Dan T. McGrevey, Fort Dodge, for appellant.

Thomas J. Miller, Attorney General, and Richard E. Mull and Robin G.  
Formaker, Assistant Attorneys General, for appellee.

Heard by Mahan, P.J., and Vaitheswaran and Eisenhauer, JJ.

**VAITHESWARAN, J.**

Lyle Askvig struck a Union Pacific freight car and died as a result. The accident occurred in Boone at a railroad crossing north of the intersection of Highway 17 with 210<sup>th</sup> Street. At the intersection was a stop sign installed by the Iowa Department of Transportation. At one point, the Department had also installed “rumble strips” on the approach to the intersection. These strips were removed prior to the accident and were replaced with a flashing red light situated on top of the stop sign. The light was not working on the night of the accident.

Following the accident, Courtney Askvig, administrator of Askvig’s estate, filed a wrongful death action against the State of Iowa.<sup>1</sup> She alleged that the State was negligent “[i]n failing to properly maintain the illumination of the stop sign governing the intersection in question” and “[i]n failing to maintain the ‘road strip warnings’ to alert a driver of the approaching intersection.” The State moved for summary judgment on several grounds. The district court granted the motion and this appeal followed.

On appeal, Courtney Askvig raises a number of issues. We find it necessary to address only one: proximate cause. Courtney Askvig concedes the district court’s findings of fact on this and other issues are “extensive, extremely well set forth and cannot be improved upon.” Therefore, we need only decide whether we agree with the court’s application of the law to the undisputed facts. *Iowa Grocery Indus. Ass’n v. City of Des Moines*, 712 N.W.2d 675, 678 (Iowa 2006).

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<sup>1</sup> She also sued Union Pacific but reached a settlement with the company.

The district court applied the law as follows:

With respect to the red flashing light, the Estate presents no evidence that a properly functioning light (or properly installed rumble strips) would have alerted the decedent to the presence of the train. In addition there is no evidence that either device was installed for the purpose of warning motorists about trains. Furthermore, signs along Highway 17, the stop sign, the crossbucks, and the train itself, were all warnings that Askvig needed to stop and also be aware of trains on the crossing which he disregarded. As a result, this Court finds incredulous that another device intended to give a visual signal to the Plaintiff can be described as a cause of this accident when eight other signs or markings were disregarded by him. As such, this Court concludes that this action is an exception to the general rule that the issue of proximate cause is for the jury. Accordingly, there is no genuine issue of material fact that supports the Estate's position on causation and the Motion for Summary Judgment should be granted.

Courtney Askvig maintains that the court erroneously focused on "the site of the accident as opposed to the site of the negligence" and "discarded" the "results of the negligence." In her view, if the flashing light had been working and the rumble strips had been in place, Lyle Askvig would have stopped at the intersection of Highway 17 and 210<sup>th</sup> Street and would not have collided with the train 148 feet to the north of the intersection.

It is well established that the proximate cause element includes the concepts of legal causation as well as "but for causation" or "causation in fact". *Rieger v. Jacque*, 584 N.W.2d 247, 251 (Iowa 1998). While Courtney Askvig might be able to prove that the absence of a flashing light and rumble strips satisfied the "causation in fact" standard, she cannot satisfy the legal causation standard. This standard requires a showing that the defendant's negligence "was a substantial factor in bringing about the harm." *Id.* Signs beginning 900 feet before the intersection of Highway 17 and 210<sup>th</sup> Street warned of the stop

preceding the railroad crossing. In addition, there were signs specifically warning of the railroad crossing. Given all these signs, Lyle Askvig's tragic collision with the train was simply not a foreseeable consequence of the State's failure to maintain a properly functioning light and rumble strips at or near the highway intersection. See *Virden v. Betts and Beer Constr. Co., Inc.*, 656 N.W.2d 805, 808 (Iowa 2003).

We affirm the district court's grant of summary judgment for the State.

**AFFIRMED.**