

Sandra Williams v. Gregg Mason
Closing Argument

Introduction:

May it please the court? Members of the jury, judge, and prosecution, good morning. Members of the jury, every choice we make has assumed risks and consequences that follow. The choice to have sex without a condom has assumed risks and consequences. The choice to not discuss the consequences of your actions has risks. The plaintiff Sandra Williams assumed the risks of having consensual sexual intercourse with Gregg Mason on the evening of May 15, 1990. We are here today, because instead of taking responsibility for the consequences of her actions, Sandra Williams is trying to blame Gregg Mason, and that members of the jury, is not right.

Let's go back to the evening of May 15, 1990. Gregg Mason and Sandra Williams are sharing a romantic candlelit dinner that Sandra planned. Soft music plays in the background. Gregg Mason went to Sandra's home with good intentions, planning only on having a nice dinner with a woman he truly cared for. But Sandra Williams had other plans. Dinner ends, and the two of them start fooling around. But it went further than this. Sandra started getting aggressive. Sandra told Gregg she wanted to have sex. Gregg said, "No." But Sandra pushed him; even after Gregg told her he did not have any condoms. Gregg knew the risks and he was cautious about his choices. But Sandra didn't care. She kept pressuring Gregg. And only after convincing him that the contraceptive gel was sufficient contraception for her did Gregg consent. Sandra could have asked Gregg to go buy condoms, but she didn't. She could have asked him to take a blood test, or about past sex partners, or pregnancy. But she didn't and now she must face the consequences of her actions.

As we re-examine the evidence and testimony in this case, it will become inexplicably clear that Gregg Mason was not negligent in the transmission of HIV.

- I. My co-counsel, Jordan Oates and I would like to thank you for your patience and presence at this trial, especially because this trial should never have come before you today.
 - a. According to the New Columbia Code of Civil Procedure, "an action for damages based upon any tort claim shall be filed within two years from the date it accrues."
 - b. Sandra Williams sat here, she was under oath, and said that she began to accrue emotional damages the moment Greg Mason called her on the telephone and told her he was HIV positive.
 - i. Greg Mason made that call on June 27, 1990.
 - ii. Sandra Williams filed this lawsuit on July 2, 1992.
 - c. The timeline presented shows the series of these events as they occurred according to the stipulated facts of this case.
 - d. Even if Sandra Williams had filed her claim within the statute of limitations, negligent transmission of HIV is not yet recognized as a cause of action in New Columbia.

Transition: However, we are here and since we are here, it is imperative that all statutes, evidence, and testimony be taken into consideration.

- II. Gregg Mason would have never knowingly put Sandra Williams in danger.
 - a. Gregg Mason testified to the fact that if he had known that he was HIV positive, he would have never had sexual intercourse with Sandra Williams.
 - b. Randy Edwards corroborated Gregg Mason's testimony by telling us that based on his experience with Gregg; he was respectful of women and would never have knowingly put Sandra in danger.
 - c. Sandra Williams also said that Gregg was "special" and always treated her well.
- III. Gregg Mason did not know he was HIV positive at the time he had consensual sexual intercourse with Sandra Williams, nor did he have any reason to.
 - a. Dr. Potter, an expert in the study of AIDS sat here, under oath, and told you that a reasonable person with Gregg Mason's symptoms would have absolutely no reason to assume he was HIV positive.
 - i. He did not engage in any high risk behaviors such as homosexual sex or intravenous drug use.
 - ii. He did not display any symptoms other than those associated with a common winter cold.
 - iii. He did not have any of the physical symptoms of an individual with a high probability of being HIV positive.
 - 1. He did not have anal warts, genital ulcers, genital herpes, yeast infections, swollen lymph glands, or severe facial acne-like rash.
 - 2. Gregg mason had a cough and a stuffy nose.
 - b. Dr. Potter also testified that based on the acceleration of Sandra Williams's condition from HIV to AIDS that it is quite possible, in fact probable that she did not receive HIV from Gregg Mason at all.

Transition: Bearing all of that in mind, it is safe to say that Gregg Mason was not negligent.

- IV. Gregg Mason was not negligent.
 - a. Negligence is defined as the failure to act as a reasonably careful person would act under the circumstances.
 - i. It has been made abundantly clear that Gregg Mason acted as a reasonably careful person would have acted under the circumstances he found himself in.
 - ii. Ladies of the jury, I ask you, what would you do if you had cold symptoms? Would you go to the doctor just in case? Would you try to rest or go on vacation to try to relax and get better? Do you consider yourselves to be reasonable people?
 - iii. Because Gregg Mason did all of these things, as a reasonable person with cold symptoms should.
 - iv. If you had cold symptoms, would you, as reasonable people assume that you had HIV, because Gregg Mason didn't.

- b. Gregg Mason made a reasonable assessment about his own health and acted in a way that any reasonable person would under the circumstances.

Transition: But we must all endure the consequences for the actions we take even if they are not negligent, and in this case, Gregg Mason is already being punished for something that is not his fault.

- V. Both Gregg Mason and Sandra Williams are going to suffer the consequences for their decision.
 - a. Gregg Mason and Sandra Williams both have HIV. The pain and suffering that Sandra Williams is enduring is the very treacherous and lonely path that Gregg Mason finds himself on as well.
 - b. Gregg Mason will develop the AIDS virus; it is only a matter of time.
 - c. But the difference between Gregg Mason and Sandra Williams? The difference is that Gregg Mason is taking responsibility for the risks he assumed when he had sex with Sandra Williams, and Sandra is not. Sandra Williams did not ask Gregg about STD's, past sex partners or pregnancy. She did not ask him to have a blood test prior to having sex with her. Instead of accepting the responsibility of her actions, Sandra Williams is blaming Gregg Mason.

Conclusion:

Ladies of the jury, Gregg Mason is a victim, a victim of a choice that has consequences. Gregg Mason, a man who has worked hard his whole life, who owns and runs three businesses, who had a full and successful life ahead of him, a man who did absolutely nothing wrong is now being wrongfully accused of negligent transmission of HIV. Gregg Mason did everything he was supposed to do as a reasonable human being; he made a reasonable assessment of his own health based on his doctor's instructions. He addressed his symptoms as a reasonable person would. He did not know he had HIV. And because Gregg did not act negligently, he should absolutely not be held liable for Sandra Williams's damages. Members of the jury, this is what we ask of you today. Sandra Williams assumed the risk of exposure to a myriad of things when she pushed Gregg to have sex with her on her last romantic evening in town, including HIV. Sandra Williams must be held responsible for her careless actions. If for any reason, members of the jury, you find any liability on the part of Gregg Mason, we ask that you find Sandra liable as well and to reduce or deny her damages in accordance with the extent of her liability. I would like remind you of the decision reached in *Moss v. Smart Prescription Pharmacy, Inc.*

"New Columbia is a comparative negligence jurisdiction. Awards in a tort action are based on the degree to which each party is at fault. Thus, once a defendant is found to be at fault, and the plaintiff is also found to be at fault, plaintiff's damages are diminished to the extent of the plaintiff's own fault. For example, if a plaintiff is found to be 25% at fault, plaintiff's damages are reduced by 25%. Note, however, if the plaintiff is 50% or more at fault, then the plaintiff is denied any recovery. New Columbia also recognizes the defense of assumption of risk in cases involving negligence claims."

Ladies of the jury, you have this option, but taking all of the facts into consideration, we the defense ask you to find Gregg Mason not negligent in the transmission of HIV and not liable for any damages accrued by Sandra Williams.

Stylistic Devices

- Anaphora is used when I discuss the fact that Gregg Mason did not have any reason to believe he was HIV positive based on Dr. Chris Potter's testimony. I begin three successive sentences with "He did not...."
- I use rhetorical questions when I ask the jury to consider what they would do if they were in Gregg Mason's situation. "Ladies of the jury, I ask you, what would you do if you had cold symptoms? Would you go to the doctor just in case? Would you try to rest or go on vacation to try to relax and get better? Do you consider yourselves to be reasonable people?"

Trial Theme

- The trial themes that are used throughout this argument are "Sandra Williams assumed the risk" and based on a "reasonable assessment of his health, Gregg Mason did not know he had HIV." The theme is addressed both in the introduction and conclusion of this argument as well as within the arguments themselves.
 - "Sandra Williams assumed the risk of exposure to a myriad of things when she pushed Gregg to have sex with her on her last romantic evening in town, including HIV."
 - "Gregg Mason did everything he was supposed to do as a reasonable human being; he made a reasonable assessment of his own health based on his doctor's instructions. He addressed his symptoms as a reasonable person would. He did not know he had HIV."
 - "Gregg Mason made a reasonable assessment about his own health and acted in a way that any reasonable person would under the circumstances."
 - "The choice to have sex without a condom has assumed risks and consequences. The choice to not discuss the consequences of your actions has risks. The plaintiff Sandra Williams assumed the risks of having consensual sexual intercourse with Gregg Mason on the evening of May 15, 1990. "
 - Gregg Mason did not know he was HIV positive at the time he had consensual sexual intercourse with Sandra Williams, nor did he have any reason to.