

United States Court of Appeals,
Eleventh Circuit.

No. 93-8443

Non-Argument Calendar.

Sandra BLACKFORD, Plaintiff-Appellee,

v.

WAL-MART STORES, INC., Defendant-Appellant.

March 21, 1995.

Appeal from the United States District Court for the Southern District of Georgia (No. 92-CV-142); B. Avant Edenfield, Chief Judge.

Before KRAVITCH and BIRCH, Circuit Judges, and GOBOLD, Senior Circuit Judge.

PER CURIAM:

In *Blackford v. Wal-Mart Stores Inc.*, 17 F.3d 367 (11th Cir.1994), we certified to the Supreme Court of Georgia the following question:

In a suit alleging malicious prosecution of a criminal bad check charge that was dismissed by the court without trial, is evidence admissible that tends to prove plaintiff's guilt in fact of the offense and, if so proved, is guilt a bar to the malicious prosecution suit?

The Supreme Court of Georgia has answered the question as follows:

In a suit alleging malicious prosecution that was dismissed by the court without trial, evidence of guilt in fact of the accused is admissible as a defense to the damage element of the tort and, if so proved, is a bar to recovery.

Wal-Mart Stores, Inc. v. Blackford, 264 Ga. 612, 449 S.E.2d 293 (1994).

Accordingly, the judgment of the district court in favor of plaintiff is REVERSED and the cause is REMANDED.

