

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-11146
Non-Argument Calendar

DOSHYNKO SULLIVAN,

Plaintiff-Appellant,

versus

FP GLENWOOD, LLC,
FAROS PROPERTY MANAGEMENT LLC,

Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:24-cv-01439-MHC

Before NEWSOM, GRANT, and WILSON, Circuit Judges.

PER CURIAM:

Doshynko Sullivan sued FP Glenwood (his landlord) and Faros Property Management (his property manager), alleging that their negligence led to a fire in his bedroom. While opposing summary judgment, Sullivan sought to introduce expert testimony about the cause of the fire. But the district court issued an order excluding that testimony and granting summary judgment for FP Glenwood and Faros. *See Sullivan v. FP Glenwood, LLC*, No. 1:24-CV-1439-MHC, 2026 WL 1105013, at *10 (N.D. Ga. Mar. 9, 2026). Sullivan now appeals both parts of that order. We affirm the district court.

I.

Sullivan lived in an apartment owned by FP Glenwood and managed by Faros. At one point, he was having issues with a light fixture in his bedroom, and over the course of a week submitted two work orders about it. He first complained that the fixture would trip the apartment's electricity, and eventually that it would not work at all. About a month after his second complaint, the light fixture was replaced. Thereafter, Sullivan filed no complaints about the light, though it still occasionally flickered.

A little over a month after the light was replaced, Sullivan's apartment tragically caught fire. While he was not home at the time of the fire, he believed that improper repair of the light fixture was the cause.

Battalion Chief and incident commander Winfred Smith responded to the scene. Based on the charring patterns, he believed that the fire was an electrical one that began near the light

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fixture, and he documented that observation in an NFIRS (National Fire Incident Reporting System) report. But Chief Smith also explained that his findings were merely “preliminary”; his role was just to decide whether experts were needed to further investigate. Consistent with his preliminary role, Chief Smith’s investigation was limited, even though at one point he made a stray suggestion about having formed his opinion to a “reasonable degree of engineering certainty.” To name a few self-admitted limitations, he did not use “the scientific method,” employ National Fire Protection Association protocols, or “conduct any experiments” on fire origin. Neither did Chief Smith analyze the circuit breakers (despite conceding that a fire-origin investigation “probably needed” to do so), nor did he evaluate the electrical panel. He also could not exclude alternative causes of the fire, such as “electrical components in the unit” or a “defect in the power supply.”

Fire investigator Corey Smith also analyzed the fire. After speaking with individuals on the scene, taking photos, reviewing burn patterns, and employing the scientific method, he could not determine its cause. He also could not, to a reasonable degree of certainty, exclude the apartment’s electrical components, a power surge, or a circuit-breaker issue as potential causes.

Two years later, Sullivan sued, alleging that FP Glenwood and Faros caused the fire by negligently maintaining and repairing the light. In opposing summary judgment, Sullivan sought to introduce Chief Smith’s opinion. But in one order, the district court excluded both Chief Smith’s causation testimony and granted

summary judgment for FP Glenwood and Faros. *See Sullivan*, 2026 WL 1105013, at *10. Sullivan appeals that order.

II.

A district court's decision to admit or exclude expert testimony is reviewed for abuse of discretion. *United States v. Frazier*, 387 F.3d 1244, 1258 (11th Cir. 2004). Under this “very limited” form of review, we defer to the district court unless its decision was “manifestly erroneous” or used “the wrong legal standard.” *Id.* at 1259 (quotation omitted).

A grant of summary judgment is reviewed de novo. *McCreight v. AuburnBank*, 117 F.4th 1322, 1329 (11th Cir. 2024). Summary judgment requires a movant to show that there is “no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” *Id.* (quoting Fed. R. Civ. P. 56(a)). If a reasonable jury could find for the nonmoving party, a “genuine issue of material fact exists.” *Id.* (quotation omitted). We view the evidence and all reasonable inferences in the light most favorable to the nonmoving party. *Id.*

III.

We start with the district court's decision to exclude Chief Smith's testimony and then turn to the grant of summary judgment for FP Glenwood and Faros.

A.

The admissibility of expert testimony in federal court is governed by Federal Rule of Evidence 702 and the Supreme

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Court's opinion in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* See 509 U.S. 579 (1993). Our cases interpreting Rule 702 require an expert to be qualified to testify, use a reliable methodology, and offer testimony useful to the factfinder. See *Frazier*, 387 F.3d at 1260. In administering these requirements, district courts perform a "critical gatekeeping function" and ensure that substandard expert testimony is excluded. *Id.* (quotation omitted). Careful inquiry into expert testimony is needed because "of the powerful and potentially misleading effect of expert evidence." *Id.* at 1263.

The dispute over Chief Smith's causation testimony concerns the second prong of Rule 702's three-part test: the reliability of his methods. Generally speaking and "to the extent practicable," reliable methodology requires theories and techniques that are testable, peer-reviewed, published, well-pedigreed, and subject to measurable error rates. *Id.* at 1262; accord *Daubert*, 509 U.S. at 593-94.

Given the limited nature of Chief Smith's investigation, the district court did not abuse its discretion by determining that his testimony was not reliable. As conceded by Chief Smith himself, his opinion was based on visual observation instead of an analysis of electrical evidence, an exclusion of other reasonable causes, or the use of recognized protocols for fire investigation. Indeed, Chief Smith expressly disclaimed using the "scientific method," nor did he analyze the circuit breakers even though he thought any fire-origin analysis "probably needed" to do so. Considering this, the

district court was not “manifestly” wrong to exclude Smith’s testimony. *Frazier*, 387 F.3d at 1258 (quotation omitted).

Sullivan’s arguments do not show otherwise. He first argues that courts have recognized that “the very methodology Chief Smith employed” can be “a valid basis for expert causation testimony in fire cases.” But the cited cases show the opposite. In *United States v. Santiago*, a panel held that fire causation testimony was admissible because the expert “systematically examined the scene,” “used the scientific method,” and ruled out alternative causes of the fire. 202 F. App’x 399, 401 (11th Cir. 2006) (unpublished). And in *Great Northern Insurance Co. v. Ruiz*, the district court admitted fire causation testimony that was derived by—among other things—a “process of elimination.” 688 F. Supp. 2d 1362, 1372-74 (S.D. Ga. 2010). Chief Smith, by contrast, testified that he did not use the scientific method or rule out alternative causes.

Sullivan next relies on the fact that Chief Smith examined the charring on the scene, was the incident commander, completed an NFIRS report, and testified under oath to a “reasonable degree of engineering certainty” about his opinion. None of these points address the crux of the issue: Chief Smith did not systematically work through potential causes of the fire. This was not a failing on his part. Systematic investigation was not his role. Rather, his job was to make a “preliminary” determination of whether experts were needed for a full investigation. And despite what Sullivan asserts, “preliminary” is not just a semantic label; Smith himself

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stated that his investigation was limited in scope. Whatever Smith meant when saying he formed his opinion to a “reasonable degree of engineering certainty,” that phrase alone is not enough to make his opinion admissible.

Sullivan’s remaining arguments also fall short. While experts may sometimes permissibly “draw a conclusion from a set of observations based on extensive and specialized experience,” Chief Smith himself conceded that his analysis had large gaps. *Kumho Tire Co. v. Carmichael*, 526 U.S. 137, 156 (1999). And these gaps do not merely go to weight as Sullivan contends; district courts must be vigilant in excluding expert testimony precisely “because of the difficulty in evaluating it.” *Daubert*, 509 U.S. at 595. Lastly, the supposed distinction between Chief Smith’s opinion on “fire origin” as opposed to “fire cause” is irrelevant because they are both ultimately opinions.

In sum, both the broad leeway given to district courts to assess reliability and the self-described limitations of Chief Smith’s testimony mean we cannot say that the district court abused its discretion.

B.

Negligence under Georgia law requires “four elements: a duty, a breach of that duty, causation and damages.” *Johnson v. Am. Nat’l Red Cross*, 276 Ga. 270, 272 (2003) (quotation omitted). Like any plaintiff, Sullivan needs to convince a jury on all elements. A failure to establish a dispute of fact for even one element of his

negligence claim is thus fatal to his appeal. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986).

Sullivan cannot preclude summary judgment for FP Glenwood and Faros on his negligent maintenance claim because there is no dispute of fact about causation. Causation requires showing how a defendant's wrongdoing harmed the plaintiff. *Redmon v. Daniel*, 335 Ga. App. 159, 162-163 (2015). But Sullivan has offered no specific evidence about what the wrongdoing was or how it caused the fire.

On appeal, he points to the fact that (1) he reported electrical problems with the light fixture; (2) the fixture was replaced; (3) the light fixture occasionally flickered thereafter; and (4) Chief Smith observed charring near the light fixture and put "Failure of Equipment or Heat Source" in his NFIRS report. But as the district court explained, these facts amount to showing that "Plaintiff had issues with a light fixture in his bedroom along with many other issues in the Apartment, Defendants replaced the problematic light fixture, a fire occurred in the Apartment, and there was some charring near the replaced light in the ruins." *Sullivan*, 2026 WL 1105013, at *9. Because none of these facts show *what* the negligent maintenance was or *how* such maintenance caused the fire, Sullivan cannot establish a material dispute of fact about causation.

Contrary to what Sullivan contends, the district court did not apply an improperly high causation standard. Georgia courts routinely grant defendants summary judgment when the cause of a fire is undetermined. *See Holcomb Invs. Ltd. v. Keith Hardware, Inc.*,

354 Ga. App. 270, 276 (2020) (collecting fire cases). And *Holcomb*, which Sullivan cites, does not suggest otherwise. *Holcomb* involved a claim that a defendant was negligent for storing combustible toxic chemicals in a warehouse. *Id.* at 270, 275-77. Even though the “specific material(s)” that combusted were unknown, the defendant could not get summary judgment because a jury could still find that the defendant should not have stored the materials at all. *Id.* at 275-77. There, the plaintiff’s claim did not depend on *how* the materials were stored. *Id.* Here, by contrast, it matters how FP Glenwood and Faros repaired the fixture because Sullivan argues not that FP Glenwood and Faros were negligent for placing a light fixture in his apartment but, rather, that they maintained it in a negligent way. *Holcomb* is thus inapplicable.

Finally, though it may be true that Sullivan’s theory about the fire’s cause has not been affirmatively refuted, that is not enough. More than a “mere possibility” that FP Glenwood and Faros caused the fire is required. *Avery v. Cleveland Ave. Motel, Inc.*, 239 Ga. App. 644, 645 (1999) (quotation omitted). Sullivan needed to “introduce evidence which affords a reasonable basis” for a jury to conclude that “it is more likely than not” that FP Glenwood and Faros’s conduct caused the fire. *Id.* (quotation omitted). Without that, a jury would have no reasonable basis to find for him on these issues.

The rest of Sullivan’s claims fall with his negligent maintenance claim. Nuisance also requires causation, so a reasonable jury could not find for Sullivan on that front. *See*

Alexander v. Hulsey Env't Servs., Inc., 306 Ga. App. 459, 462 (2010). And negligent supervision requires some pattern of underlying wrongful acts by an employee who an employer did not take reasonable care to prevent or address. *See Leo v. Waffle House, Inc.*, 298 Ga. App. 838, 841 (2009). Sullivan has not identified any wrongful acts, let alone a pattern, so this claim fails, too. And his vicarious liability and attorney's fees claims also fail because they require success on his underlying claim. *See, e.g., Edwards v. Lennar Georgia, LLC*, 933 S.E.2d 95, 98 (Ga. Ct. App. 2026) (respondeat superior); *Popham v. Landmark Am. Ins. Co.*, 340 Ga. App. 603, 612 (2017) (attorney's fees).

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We **AFFIRM** the district court.