

STATE OF MICHIGAN
COURT OF APPEALS

DWANE CARNER,

Plaintiff-Appellant,

v

STEVEN PARRISH and ERIC PARRISH,

Defendants-Appellees.

UNPUBLISHED

April 25, 1997

No. 185998

Wayne County

LC No. 93-323849

Before: Wahls, P.J., and Gage and W.J. Nykamp,* JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's grant of summary disposition in favor of defendants pursuant to MCR 2.116(C)(8). We affirm.

Plaintiff sustained injuries after he was assaulted by a nineteen-year-old who had been drinking beer at a party. Plaintiff sued defendants, alleging that they were negligent in furnishing the beer to plaintiff's assailant in violation of MCL 436.33; MSA 18.1004 of the Liquor Control Act. The trial court granted defendants' motion for summary disposition, finding that defendants could not be held liable for plaintiff's injuries under a social host liability theory because their acts were not the proximate cause of plaintiff's injuries as a matter of law.

Although a violation of MCL 436.33; MSA 18.1004 creates a rebuttable presumption of negligence, a plaintiff must still demonstrate that the defendant's furnishing of alcohol to an underage guest proximately caused the plaintiff's injury. *Longstreth v Gensel*, 423 Mich 675, 693-695; 377 NW2d 804(1985). Accepting the allegations in plaintiff's complaint as true, defendants' actions in furnishing beer to the underage assailant were not the proximate cause of plaintiff's injuries as a matter of law because "criminal or violent acts are not foreseeable results of the serving of alcohol to minors and, therefore, cannot serve as a basis for social host liability." *Rogalski v Tavernier*, 208 Mich App 302; 527 NW2d 73 (1995). The trial court therefore did not err in granting defendants' motion for summary disposition.

*Circuit judge, sitting on the Court of Appeals by assignment.

Plaintiff argues that the *Rogalski* opinion improperly limited the effect of *Longstreth*, in which the Supreme Court held that social hosts may be held liable for serving alcohol to their underage guests, to cases involving alcohol-related automobile accidents. Plaintiff cites no Michigan cases applying *Longstreth* to any criminal activity other than impaired driving. Moreover, the *Rogalski* opinion is binding precedent under Administrative Order 1996-4, 451 Mich xxxii, and controls the outcome of plaintiff's suit.

Affirmed. Defendants being the prevailing party, they may tax costs pursuant to MCR 7.219.

/s/ Myron H. Wahls

/s/ Hilda R. Gage

/s/ Wesley J. Nykamp