

STATE OF MICHIGAN
COURT OF APPEALS

DENNIS SHARROCK, Individually and as Personal
Representative of the Estate of MAURICE
SHARROCK, Deceased,

Plaintiff-Appellant,

v

RITE AID OF MICHIGAN, INC., f/k/a PERRY
DRUG STORES, INC.,

Defendant-Appellee.

UNPUBLISHED
February 2, 1999

No. 204947
Macomb Circuit Court
LC No. 96-006583 NH

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's decedent suffered from constant and debilitating pain for several years prior to his death. He treated with various physicians, one or more of whom prescribed Darvocet, a narcotic pain medication. Defendant filled the prescriptions as ordered. Decedent also filled prescriptions from other physicians at other pharmacies.

Decedent was found dead in his home. The cause of death was listed as an overdose of Darvocet. Plaintiff filed suit alleging that defendant breached its duty to monitor decedent's use of narcotics, to contact his physician to discuss possible overuse, to confront decedent when overuse was suggested, and to refrain from filling a prescription when it was obvious that decedent was abusing the prescription.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(8) and (10), arguing that a pharmacist did not owe a duty to monitor drug usage or to warn of side effects from drugs obtained via a prescription that was proper on its face. The trial court granted defendant's motion for summary disposition pursuant to MCR 2.116(C)(8).

We review a trial court's ruling on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

Plaintiff argues that the trial court erred in granting defendant's motion for summary disposition. Plaintiff contends that Michigan should recognize a cause of action for professional negligence when a pharmacist fails to monitor a patient's drug use. We disagree. A pharmacist has a duty to properly fill a legal prescription. *Adkins v Mong*, 168 Mich App 726, 729; 425 NW2d 151 (1988). A pharmacist has no legal duty to monitor a customer's drug usage, *Kintigh v Abbott Pharmacy*, 200 Mich App 92, 94; 503 NW2d 657 (1993), or to warn of side effects from drugs obtained via a prescription that is proper on its face. *Baker v Arbor Drugs, Inc*, 215 Mich App 198, 204; 544 NW2d 727 (1996). Controlling Michigan law clearly supports the trial court's decision.

Affirmed.

/s/ David H. Sawyer

/s/ Myron H. Wahls

/s/ Joel P. Hoekstra