

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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HENRY FORD HOSPITAL,

Plaintiff-Appellant,

v

CITY OF HIGHLAND PARK and  
COUNTY OF WAYNE,

Defendants-Appellees.

UNPUBLISHED

June 8, 1999

No. 205475

Wayne Circuit Court

LC No. 96-646220 CK

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Before: Sawyer, P.J., and Bandstra and R.B. Burns\*, JJ.

PER CURIAM.

Plaintiff appeals as of right from two orders granting defendants, City of Highland Park (hereinafter Highland Park) and Wayne County, summary disposition. Because the trial court acknowledged during the motion hearing that it considered documentary evidence, we will assume that the motions were granted pursuant to MCR 2.116(C)(10).<sup>1</sup> We affirm.

Plaintiff contends that it is entitled to receive payment for medical services rendered to Angelo Middlebrook. Middlebrook attempted to hang himself while in the Highland Park City Jail. Plaintiff argued that either Highland Park or Wayne County was liable for the medical expenses as Middlebrook was a prisoner at the time of his injury. The trial court granted Highland Park's and Wayne County's respective motions for summary disposition. Both defendants had argued that Middlebrook was not in custody at the time the medical expenses were incurred and, therefore, neither one was obligated to pay for his hospitalization.

“Appellate review of a motion for summary disposition is de novo.” *Spiek v Dep’t of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion for summary disposition relying upon MCR 2.116(C)(10) tests whether there is factual support for a claim. *Spiek, supra*. A court must consider the pleadings, affidavits, depositions, admissions and other documentary evidence available to it. *Id.* Provided the moving party’s motion is properly supported with evidence, the party opposing the motion must respond with evidentiary materials that show the existence of a genuine issue of material fact. *Quinto v Cross & Peters Co*, 451 Mich 358, 362; 547 NW2d 314 (1996); *Skinner*

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

*v Square D Co*, 445 Mich 153, 160; 516 NW2d 475 (1994). All inferences will be drawn in favor of the nonmovant. *Quinto, supra*; *Dagen v Hastings Mutual Ins Co*, 166 Mich App 225, 229; 420 NW2d 111 (1987).

The trial court properly granted Highland Park's and Wayne County's motions for summary disposition. With regard to a hospital's right to collect medical expenses related to the treatment of prisoners, MCL 801.4; MSA 28.1724 provides:

Except as provided in sections 5 and 5a, all charges and expenses of safekeeping and maintaining prisoners and persons charged with an offense, shall be paid from the county treasury, the accounts therefor being first settled and allowed by the county board of commissioners.

However, this statute only applies when a prisoner is actually in custody at the time the medical expenses were incurred. *St Mary's Hosp v Saginaw Co*, 139 Mich App 647, 649-650; 363 NW2d 32 (1984); *Borgess Hosp v Berrien Co*, 114 Mich App 385, 387; 319 NW2d 354 (1982). Here, Middlebrook was not in custody at the time he incurred the medical expenses. Plaintiff argues that Middlebrook was injured while he was in custody. However, the relevant factor is not where the injury occurred giving rise to the need for medical treatment; rather, the relevant inquiry is whether Middlebrook was in custody during his hospitalization. *St Mary's Hosp, supra*; *Borgess Hosp, supra*. While Middlebrook was a prisoner at the time of injury, police officers made no attempt to exercise control over Middlebrook while he was hospitalized. Cf. *St. Mary's Hosp, supra*. The affidavit of Sergeant Richard Veldman clearly indicated that Middlebrook had been released on bond. In addition, Middlebrook was not released back into police custody following his hospital stay. Because Middlebrook was not in custody at the time the medical expenses were incurred, Wayne County was under no obligation to pay plaintiff. *Id.*<sup>2</sup>

Plaintiff also argues that, based on public policy, incarcerating authorities should not be allowed to discharge prisoners in order to avoid liability for medical costs and, further, that an improper release of a prisoner should not absolve an incarcerating authority from liability under MCL 801.4; MSA 28.1724. These issues should be addressed to the Legislature for possible amendment of the statute. *Oakland Co Bd of Co Rd Comm'rs v Michigan Property & Casualty Guaranty Ass'n*, 456 Mich 590, 613; 575 NW2d 751 (1998).

We affirm.

/s/ David H. Sawyer

/s/ Richard A. Bandstra

/s/ Robert B. Burns

<sup>1</sup> To the extent that the trial court's orders suggest that summary disposition was granted pursuant to MCR 2.116(C)(8), we nevertheless conclude that summary disposition was appropriate. This Court will not reverse where the trial court reached the right result for the wrong reason. *Lane v Kindercare*

*Learning Centers, Inc*, 231 Mich App 689, 697; 588 NW2d 715 (1998); *Stevens Mineral Co v Michigan*, 164 Mich App 692, 699-700; 418 NW2d 130 (1987).

<sup>2</sup> On appeal, plaintiff makes no attempt to argue that Highland Park is legally responsible for the medical expenses. Plaintiff merely cites cases that support its argument that Wayne County was liable. At no point did plaintiff cite any authority to support its contention that Highland Park was equally liable but merely made the blanket statement that summary disposition was inappropriate. Plaintiff made a legal argument that Wayne County was liable, but failed to make a similar argument with regard to Highland Park. Thus, plaintiff is deemed to have abandoned its claim against Highland Park. *Dresden v Detroit Macomb Hosp Corp*, 218 Mich App 292, 300; 553 NW2d 387 (1996). In any event, had the claim not been abandoned, Highland Park could not be legally responsible for the medical expenses for the same reasons that Wayne County is not obligated under the statute.