STATE OF MICHIGAN

COURT OF APPEALS

WILLIAM LAZARUS,

Plaintiff-Appellant,

v

ARTHUR WOODY and KAY WOODY,

Defendants-Appellees.

UNPUBLISHED
June 18, 1999

No. 209731
Eaton Circuit Court
LC No. 97-000513 NO

Before: Neff, P.J., and Hood and Murphy, JJ.

PER CURIAM.

Plaintiff appeals by right from an order granting defendants' motion for summary disposition. Plaintiff's claim resulted from a slip and fall accident that took place on a wheelchair ramp located at the home of his mother and stepfather, defendants. We affirm.

Plaintiff first argues that the trial court's grant of summary disposition was improper because the court erred in determining as a matter of law that plaintiff was not an invitee. On appeal, an order granting summary disposition is reviewed de novo. The record must be reviewed to determine whether the successful party was entitled to judgment as a matter of law. *Adkins v Thomas Solvent Co*, 440 Mich 293, 302; 487 NW2d 715 (1992).

The duty owed by a landowner to persons on his property depends on the status of the person at the time of an injury. *Doran v Combs*, 135 Mich App 492, 495; 354 NW2d 804 (1984). Generally, adult social guests and family members are considered licensees, to which landowners are not liable for injuries flowing from known risks. *Id*. at 496. However, if the predominant purpose of the visit by a family member or friend is mutually beneficial, the visitor is deemed an invitee and the landowner may be liable for injuries caused to an invitee by known risks. *Id*.

In this case, plaintiff testified that he was at defendants' home to both visit and help his stepfather with repairing a vehicle. With regard to the mutual-benefit requirement, however, there was no evidence that plaintiff would be paid, or receive any other immediate tangible benefit, for his repair services. Further, although defendants cared for plaintiff during his convalescence five years earlier, there was no ongoing or recent relationship between the parties of the type that this Court has

previously considered as demonstrating a mutual benefit. Compare *White v Badalamenti*, 200 Mich App 434, 436-437; 505 NW2d 8 (1993). Accordingly, because there was no mutual benefit to plaintiff's visit, the trial court did not err in determining that plaintiff was only a licensee. Further, because plaintiff was a licensee and testified that he was aware of the risk posed by the wet ramp, defendants could not be held liable for plaintiff's injuries based on a premises liability theory, and the trial court properly granted summary disposition on this issue.

Because we conclude that plaintiff was not an invitee, we need not address the arguments on the open and obvious doctrine and unreasonable risk issues.

Plaintiff also claims that the trial court improperly granted summary disposition with regard to his nuisance claim. "A nuisance per se is 'an activity or condition which constitutes a nuisance at all times and under all circumstances, without regard to the care with which it is conducted or maintained.'" *Palmer v Western Michigan University,* 224 Mich App 139, 144; 568 NW2d 359 (1997), quoting *Li v Feldt (After Second Remand*), 439 Mich 457, 476-477; 487 NW2d 127 (1992).

Because the record in this case establishes that the ramp is slippery only when the weather is rainy and cold, it cannot be said that the ramp is dangerous, i.e., a nuisance, under all circumstances. As a result, the trial court properly granted summary disposition on this claim.

Affirmed.

/s/ Janet T. Neff
/s/ Harold Hood
/s/ William B. Murphy