

STATE OF MICHIGAN
COURT OF APPEALS

DONALD E. WILSON,

Plaintiff-Appellant,

v

CRITTENTON HOSPITAL,

Defendant-Appellee.

UNPUBLISHED

July 30, 1999

No. 207537

Oakland Circuit Court

LC No. 97-537860 NI

Before: White, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Plaintiff appeals by right the trial court's order granting summary disposition to defendant, pursuant to MCR 2.116(C)(10) in this slip and fall case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, plaintiff argues that the trial court erred in finding no genuine issue of material fact on the issue of notice. Plaintiff contends that there is evidence tending to show that the "water" on the floor where he fell was more likely than not caused by defendant's employees, and that the condition was of such character that defendant's employees should have noticed it. We disagree.

The liquid was in a common area of the hospital near an elevator that was used by visitors, vendors and patients as well as employees. Although plaintiff's fall occurred several hours before the hospital's visiting hours began for the day, there is evidence that the hospital received visitors, including plaintiff, before visiting hours officially began. Furthermore, while the hospital employee who rode the elevator to the fifth floor with plaintiff testified that she does not recall seeing anyone other than patients and hospital employees on the floor earlier that morning, this employee left the fifth floor before plaintiff's fall. Plaintiff assumes that patients would have no reason to use or to be in the area of the elevator, but defendant's employees testified that patients use the elevators regularly. Plaintiff also assumes that the liquid was water that originated from a source over which the hospital exercised control.

Plaintiff failed to produce sufficient evidence to remove the case from the realm of conjecture. Therefore, summary disposition was properly granted. *McCune v Meijer, Inc.*, 156 Mich App 561,

563; 402 NW2d 6 (1986); *Whitmore v Sears, Roebuck & Co*, 89 Mich App 3, 8-10; 279 NW2d 318 (1979).

We affirm.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder