

STATE OF MICHIGAN
COURT OF APPEALS

TERREON SMITH, a Minor, by his Next Friend,
DANA HOPE FRANKLIN,

UNPUBLISHED
August 4, 2000

Plaintiff-Appellant,

v

CITY OF LANSING and THE SALVATION
ARMY,

No. 218000
Ingham Circuit Court
LC No. 98-087698-NO

Defendants-Appellees.

Before: Gage, P.J., and Gribbs and Sawyer, JJ.

PER CURIAM.

Plaintiff appeals the trial court orders granting defendants summary disposition pursuant to MCR 2.116(C)(7), (8) and (10). We affirm.

Plaintiff first argues that the trial court erred in concluding that he did not properly plead the public building exception to governmental immunity as to defendant Lansing. We disagree. The defect, according to plaintiff, was a heavy metal entrance door of the OPCC building that readily closed unless it was propped open.

Tort immunity is broadly granted to governmental agencies. MCL 691.1407(1); MSA 3.996(107)(1). Governmental agencies subject to immunity include municipal corporations. MCL 691.1401(d); MSA 3.996(101)(d); *Vargo v Sauer*, 457 Mich 49, 68; 576 NW2d 656 (1998). The public building exception to governmental immunity is narrowly construed. *Horace v Pontiac*, 456 Mich 744, 749; 575 NW2d 762 (1998); MCL 691.1406; MSA 3.996(106). The purpose of the exception is to protect the general public from injury by imposing a duty on the government to maintain safe public buildings. *Steele v Dep't of Corrections*, 215 Mich App 710, 713; 546 NW2d 725 (1996). The Legislature intended to impose a duty to maintain the safety of public buildings, not necessarily safety in public buildings. *Reardon v Dep't of Mental Health*, 430 Mich 398, 415; 424 NW2d 248 (1988). Thus, the alleged defect must be a defect of the building itself and not merely a transient condition or inadequate supervision in an otherwise adequate facility. *Wade v Dep't of Corrections*, 439 Mich 158, 168; 483 NW2d 26 (1992).

In this case, plaintiff contends that it was the improper design of the heavy metal door in the building's front entranceway and the lack of safety devices that combined to produce his injury. Here plaintiff established only that the door was propped open with a chair on the date of his injury and that the door closed when the chair was removed. Although plaintiff continually referred to the door as being "heavy" and argued that it "slammed" shut on plaintiff's finger when the chair was removed, there is no evidence that the door itself, or its operation, were dangerous or defective. Plaintiff's allegations against Lansing were grounded in theories of negligence *in* the building not *of* the building itself. These allegations alone are insufficient to overcome the public building exception to governmental immunity. *Reardon, supra* at 415; *Sewell v Southfield Schools*, 456 Mich 670, 676; 576 NW2d 153 (1998). Thus, the trial court properly granted Lansing summary disposition.

Plaintiff next argues that the trial court granted Lansing's motion for summary disposition prematurely because discovery was not complete. However, plaintiff cites no authority for this argument. A party may not leave it to this Court to search for authority to support its position. *McPeak v McPeak (On Remand)*, 233 Mich App 483, 495-496; 593 NW2d 180 (1999). Where a party fails to cite any supporting legal authority for its position, the issue is deemed abandoned for purposes of appellate review. *Prince v McDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999).

Plaintiff also contends that the trial court erred in granting summary disposition to The Salvation Army, finding it lacked the requisite degree of control of the OPCC building sufficient to impose liability for plaintiff's injuries. We disagree. Although Denise Lynch stated that The Salvation Army "operate[d] [the OPCC building]," a review of her complete testimony reveals that: (1) she was uncertain whether the OPCC building was leased to The Salvation Army, (2) she did not know the building's "formal name," (3) she called it the "Salvation Army building" because she was of the understanding other Salvation Army programs were held there, and (4) she did not know if Lansing or The Salvation Army owned the OPCC building. Thus, Lynch's testimony regarding The Salvation Army's possession and control of the OPCC building was equivocal at best and did not establish that a genuine issue of material fact existed regarding The Salvation Army's degree of possession and control of the OPCC building.

Moreover, other evidence was presented that: (1) the OPCC building was not being leased by The Salvation Army at the time of plaintiff's accident, (2) the lease between Lansing and The Salvation Army, pertaining to the OPCC building, expired four to five years before plaintiff's accident, (3) the Kid's Camp was operated by Lansing and not The Salvation Army and was not a "joint enterprise" between the two entities, (4) The Salvation Army's only involvement with the OPCC building was that it conducted a "Fun Friday" program there, (5) although a Salvation Army employee possessed a key to the building, this was the result of the former lease between Lansing and The Salvation Army, (6) Lansing was responsible for the maintenance of the OPCC building, and (7) Salvation Army employees and staff did not participate in Lansing's operation of the Kid's Camp program held at the OPCC building. Although not dispositive, we also note that the parties did not dispute that Lansing owned the OPCC building.

Based on our review of the evidence, we agree with the trial court that plaintiff failed to sufficiently establish the requisite degree of possession and control held by The Salvation Army to impose any duty to protect or warn plaintiff from any hazards posed by the front entrance door to the building. See *Kubczak v Chemical Bank & Trust Co*, 456 Mich 653, 660; 575 NW2d 745 (1998). For the same reasons, plaintiff's claim of negligent supervision against The Salvation Army was also properly dismissed.

Affirmed.

/s/ Hilda R. Gage
/s/ Roman S. Gribbs
/s/ David H. Sawyer