

STATE OF MICHIGAN
COURT OF APPEALS

BONNIE M. SCHRAY,

Plaintiff-Appellant,

v

MICHIGAN STATE UNIVERSITY,

Defendant-Appellee.

UNPUBLISHED

November 21, 2000

No. 217986

Court of Claims

LC No. 94-015611-CM

Before: Doctoroff, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order of judgment in favor of defendant entered following a bench trial and from an order denying plaintiff's motion requesting the court to amend its findings and enter a judgment in favor of plaintiff. We affirm.

This case arises out of a traffic accident that occurred on the Michigan State University campus at the intersection of Shaw Lane and Birch Road. Plaintiff alleged that she drove her car into the side of a bus because the bus driver negligently drove through the intersection, despite the presence of a stop sign.

Plaintiff argues that the trial court abused its discretion in denying her motion for requesting the court to amend its findings and enter a judgment in her favor because the finding that the bus driver exercised reasonable care under the circumstances was against the great weight of the evidence. We review a trial court's decision to grant or deny a motion on the ground that the verdict was against the great weight of the evidence for a clear abuse of discretion. *Arrington v Detroit Osteopathic Hospital Corp (On Remand)*, 196 Mich App 544, 551; 493 NW2d 492 (1992). In determining whether a clear abuse of discretion exists in such instance, we engage in an in-depth analysis of the record below. *Id.* at 560. We give substantial deference to a trial court's determination that the verdict is not against the great weight of the evidence. *Id.*

Under the motor vehicle exception to governmental immunity, MCL 691.1405; MSA 3.996(105), governmental agencies are liable for injuries arising from their employees' negligent operation of a government-owned motor vehicle. "To establish a prima facie case of negligence, a plaintiff must introduce evidence sufficient to establish that (1) the defendant owed a duty to the plaintiff, (2) the defendant breached that duty, (3) the defendant's breach was a proximate

cause of the plaintiff's injuries, and (4) the plaintiff suffered damages." *Spikes v Banks*, 231 Mich App 341, 355; 586 NW2d 106 (1998). With respect to the second element, a defendant may breach the duty of care by failing to exercise reasonable care under the circumstances. *Antcliff v State Employees Credit Union*, 414 Mich 624, 631-632; 327 NW2d 814 (1982).

After reviewing the record below, we conclude that the judgment was not against the great weight of the evidence. Although the bus driver readily admitted that he did not stop at the stop sign before proceeding through the intersection, we believe that there was sufficient evidence that a traffic controller waved him through the intersection. Indeed, an uninterested witness in this case testified that she saw a traffic controller wave the bus through the intersection. Moreover, although the bus driver testified that he could not remember whether a traffic controller waved him through the intersection, after the accident he told an MSU police officer who investigated the scene of the accident that a traffic controller waved him through the intersection. Because there was sufficient evidence that the traffic controller waved the bus driver through the intersection, we believe that he was justified in relying on the traffic controller's assessment that it was safe to proceed through the intersection without having to stop at the stop sign. Moreover, the bus driver testified that the traffic controllers had stopped traffic in both the eastbound and westbound lanes of Shaw Lane and that it appeared safe to proceed through the intersection. Simply stated, a reasonable and prudent bus driver under the same and similar circumstances would have acted in the same manner as the bus driver did in this case.

In addition, there was also evidence that once the bus driver proceeded through the intersection, he did so in a reasonable and prudent manner. The bus driver testified that as he proceeded through the intersection, he looked in both directions the entire way through the intersection and was traveling approximately fifteen miles per hour. Accordingly, we are satisfied that the bus driver was not negligent because he exercised reasonable care under the circumstances. The trial court properly entered a judgment for defendant and did not abuse its discretion in denying plaintiff's motion for a new judgment in her favor because the verdict was not against the great weight of the evidence.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Joel P. Hoekstra

/s/ Jane E. Markey