STATE OF MICHIGAN

COURT OF APPEALS

HOLLY MOZHAM,

Plaintiff-Appellant,

and

STATE OF MICHIGAN and DEPARTMENT OF COMMUNITY HEALTH,

Intervening Plaintiffs,

v

THE SAINT ANDREWS SOCIETY OF DETROIT and SAINT ANDREWS HALL,

Defendants-Appellees.

UNPUBLISHED
February 6, 2001

No. 215463
Wayne Circuit Court
LC No. 97-724175-NI

Before: Neff, P.J., and Talbot and J.B. Sullivan,* J.J.

PER CURIAM.

In this premises liability action, plaintiff appeals as of right from the trial court's order granting summary disposition to defendants pursuant to MCR 2.116(C)(10). Plaintiff, a business invitee at defendant's bar, was pushed to the ground by another patron who allegedly was "slam dancing," and the court ruled that plaintiff failed to present evidence that defendants were on notice of misconduct by other patrons. We affirm.

Plaintiff first argues that the trial court erred in granting summary disposition to defendants because knowledge of a hazardous condition caused by defendants is inferred, and notice was therefore not required. This Court reviews decisions on motions for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). Plaintiff cites *Freedman v Palmer Park Theater Co*, 345 Mich 657, 669; 77 NW2d 108 (1956), and we agree that case supports plaintiff's argument and presents a correct statement of the law. However, *Freedman* is not controlling here because defendants are entitled to summary disposition based on the open and obvious doctrine. This Court does not reverse when the trial

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

court reaches the correct result albeit for the wrong reason. *Smith v Motorland Ins Co*, 135 Mich App 33, 39; 352 NW2d (1984).

Our Supreme Court held in *Riddle v McLouth Steel Products*, 440 Mich 85, 95; 485 NW2d 676 (1992), and reaffirmed in *Bertrand v Alan Ford, Inc*, 449 Mich 606, 612; 537 NW2d 185 (1995), that the open and obvious doctrine applies to premises liability cases and attacks the duty aspect of a prima facie negligence case. Therefore, summary disposition of a negligence claim may be granted based on the open and obvious doctrine:

> The "no duty to warn of open and obvious danger" rule is a defensive doctrine that attacks the duty element that a plaintiff must establish in a prima facie negligence case . . . . If the plaintiff is a business invitee, the premises owner has a duty to exercise due care to protect the invitee from dangerous conditions. However, where the dangers are known to the invitee or are so obvious that the invitee might reasonable be expected to discover them, an invitor owes no duty to protect or warn the invitee unless he should anticipate the harm despite knowledge of it on behalf of the invitee. [*Bertrand, supra* at 612-613, quoting *Riddle, supra* at 95-97.]

An open and obvious danger is defined as a danger that is reasonably expected to be discovered by an average user with ordinary intelligence upon casual inspection. *Hughes v PMG Building, Inc*, 227 Mich App 1, 11; 574 NW2d 691 (1997), citing *Eason v Coggins Memorial Christian Methodist Episcopal Church*, 210 Mich App 261, 264; 532 NW2d 882 (1995).

Here, plaintiff alleged defendants were negligent because they created crowded conditions for dancing and failed to provide barricades or other devices that would allow her unfettered access to the restroom without being hit by dancers. A reasonable person would have been aware that there is a risk of being injured while walking in close proximity to the dance floor. Therefore, any danger associated with walking in close proximity to a dance floor with no barricades was open and obvious.

While this danger was open and obvious, plaintiff could still recover if she could show that despite the open and obvious nature of the danger, defendant failed to protect her from an unreasonable risk of harm. *Bertrand, supra* at 614. In order for the risk of injury to be an unreasonable one, a plaintiff must show that there is something unusual about the dangerous condition or situation. *Id.* at 617. Plaintiff has not alleged anything unusual about defendants' premises. She was in a bar and made her way to the restroom. To get to the restroom, she passed by the dance floor. She has not introduced any evidence that indicated that the character, location, or conditions of the dance floor or restroom were unusual. It is not unusual for a bar to have a dance floor, nor is it unusual to have people dancing to music there. Since plaintiff has failed to present any evidence of an unreasonable risk of harm, the trial court was correct in granting defendants' summary disposition. See *Bertrand, supra* at 621; *Millikin v Walton Manor Mobile Home Park, Inc*, 234 Mich App 490; 595 NW2d 152 (1999).

Plaintiff further argues that the trial court abused its discretion in denying her motion for reconsideration based on an affidavit which further attempted to establish notice. We again disagree. Motions for reconsideration are reviewed for an abuse of discretion. *In re Beglinger*

Trust, 221 Mich App 273, 279; 561 NW2d 130 (1997). Ordinarily, for an abuse of discretion to be found, the moving party must be able to indicate to the reviewing court that a palpable error occurred when the trial court denied the motion and that the motion must have a different result because of this error. MCR 2.119(F)(3); *Brown v Libbey-Owens-Ford Co*, 166 Mich App 213, 216; 420 NW2d 106 (1988). Since we have already concluded that the trial court reached the right result, it follows that the trial court did not abuse its discretion in denying plaintiff's motion for reconsideration. *Michigan v D J Reynaert, Inc*, 165 Mich App 630, 646; 419 NW2d 445 (1988).

Affirmed.

/s/ Janet T. Neff
/s/ Michael J. Talbot
/s/ Joseph B. Sullivan