

STATE OF MICHIGAN
COURT OF APPEALS

JUNE NAZARIO, Personal Representative of the
Estate of EDELFINA NAZARIO,

Plaintiff-Appellant,

v

TED HULL, VILLAGE OF REESE, COUNTY OF
TUSCOLA, THOMAS PENNINGTON and JON
OLIVER,

Defendants-Appellees.

BELINDA MESTER, Next Friend of JESSICA
MESTER, a Minor,

Plaintiff-Appellant,

v

TED HULL, VILLAGE OF REESE, THOMAS
PENNINGTON, JON OLIVER and COUNTY OF
TUSCOLA,

Defendants-Appellees.

UNPUBLISHED
April 27, 2001

No. 209203
Tuscola Circuit Court
LC No. 95-014414-NI

No. 209215
Tuscola Circuit Court
LC No. 95-014229-NI

ON REMAND

Before: Murphy, P.J., and Griffin and Talbot, JJ.

MEMORANDUM.

We previously issued an opinion in these consolidated cases affirming the circuit court's order granting summary disposition in favor of defendants. *Nazario v Hull* and *Mester v Hull*, memorandum opinion of the Court of Appeals, issued November 30, 1999 (Docket Nos. 209203, 209215). The cases are before us again pursuant to an order of our Supreme Court directing us to reconsider our earlier decision in light of *Robinson v City of Detroit*, 462 Mich 439; 613 NW2d 307 (2000). We again affirm.

We previously held that defendants owed no duty to plaintiffs, who were voluntary passengers in a vehicle fleeing police pursuit. Assuming, for current purposes, that in line with the reasoning of *Robinson* there existed a jury question whether plaintiffs were owed a duty as innocent passengers at the time of the pursuit and crash, *Id.* at 444, we nevertheless conclude that summary disposition in favor of defendants was appropriate. Plaintiffs' respective injuries, fatal in decedent Nazario's case, did not *result from* the operation of a government vehicle. See MCL 691.1405; MSA 3.996(105). The pursuing police vehicles neither hit the fleeing car nor forced it off the road or into another vehicle or object. *Robinson, supra* at 445, 456-457. Similarly, the individual police officers' conduct was not the "proximate cause" of plaintiffs' varyingly severe injuries. MCL 691.1407(2); MSA 3.996(107)(2); *Robinson, supra* at 445-446, 462-463.

Affirmed.

/s/ William B. Murphy
/s/ Richard Allen Griffin
/s/ Michael J. Talbot