STATE OF MICHIGAN

COURT OF APPEALS

JOSHUA ASHFORD, a Minor, by his Next Friend, BRIDGHETTA ASHFORD,

Plaintiff-Appellant,

v

EDITH M. LLOYD,

Defendant-Appellee.

UNPUBLISHED
April 9, 2002

No. 222119
Wayne Circuit Court
LC No. 98-825022-NO

Before: Saad, P.J., and Bandstra, C.J., and Whitbeck, J.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's order granting summary disposition to defendant in this premises liability case. We affirm.

Plaintiff alleges that two-year-old Joshua Ashford tripped and fell on a raised City of Detroit water meter valve while playing on defendant's lawn. In her complaint, plaintiff claims that defendant had a duty to warn of or protect Joshua from dangers that defendant knew or should have known existed on the premises. Plaintiff avers that defendant breached those duties by allowing a hazardous condition to remain in her yard.

Defendant filed a motion for summary disposition in the trial court under MCR 2.116(C)(10). Defendant argued that plaintiff alleged only that defendant negligently allowed the water valve to remain on the property and that she had no duty to warn Joshua about it because it is an open and obvious condition. In response, plaintiff argued that the open and obvious danger doctrine should not apply because Joshua was two years old at the time of the incident and the water meter constituted an unreasonably dangerous condition. The trial court granted defendant's motion based on the objective standard for evaluating an open and obvious condition articulated in *Novotney v Burger King (On Remand)*, 198 Mich App 470; 499 NW2d 379 (1993).

On appeal, plaintiff merely asserts that defendant's argument that the open and obvious doctrine applies is "simply absurd" and "simply defies logic," but cites no case law to support her contention and fails to articulate why the doctrine should not apply to minors generally or in this case. Accordingly, "this issue has not been properly presented for review because [plaintiff] has given cursory treatment to the issue with little or no citation to relevant supporting authority for his argument." *Silver Creek Twp v Corso*, 246 Mich App 94, 99; 631 NW2d 346 (2001). "It

is axiomatic that where a party fails to brief the merits of an allegation of error, the issue is deemed abandoned by this Court." *Prince v MacDonald*, 237 Mich App 186, 197; 602 NW2d 834 (1999). As our Supreme Court has observed:

> It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. The appellant himself must first adequately prime the pump; only then does the appellate well begin to flow. [*Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998), quoting *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).]

Because plaintiff failed to explain the merits of her claim or to discuss case law addressing similar issues, we consider this issue abandoned.[1]

Plaintiff also asserts that, if the trial court correctly concluded that the valve was an open and obvious danger, she should nonetheless prevail because the valve constituted an unreasonably dangerous condition. To sustain a claim that defendant owed a duty to undertake reasonable precautions to protect Joshua from even an open and obvious danger, plaintiff must show that there was something unusual about the valve in light of its "character, location, or surrounding conditions," that made it unreasonably dangerous. *Bertrand v Alan Ford, Inc*, 449 Mich 606, 617; 537 NW2d 185 (1995), quoting *Garret v WS Butterfield Theatres, Inc*, 261 Mich 262, 263-264; 246 NW 57 (1933); See also *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 517-518; 629 NW2d 384 (2001). Plaintiff merely asserts that the valve was unreasonably dangerous, but fails to set forth a description of any "special aspects" of the valve that made the risk of harm unreasonable. *Lugo, supra*, at 517. Again, plaintiff has not briefed the merits of her assertion and has left it to this Court to discover and rationalize the basis for her claims. Therefore, we decline to further address it. *Mudge, supra* at 105.

Affirmed.

/s/ Henry William Saad
/s/ Richard A. Bandstra
/s/ William C. Whitbeck

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[1] Although we do not address the issue in this case, we note that Michigan case law suggests that whether a condition is open and obvious is judged by an objective standard: whether it is reasonable to expect that an average person of ordinary intelligence would discover the danger upon casual inspection. *Novotney, supra* at 474-475.