

STATE OF MICHIGAN
COURT OF APPEALS

HARONDO EVANS,

Plaintiff-Appellant,

V

CITY OF TAYLOR, WILLIAM DEMAGGIO,
and GREGORY SMITH,

Defendants-Appellees,

and

JAMES HUBBARD,

Defendant.

UNPUBLISHED

July 5, 2002

No. 230792

Wayne Circuit Court

LC No. 99-935631-CZ

Before: Hood, P.J., and Saad and E. M. Thomas,* JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition based on the public duty doctrine. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The individual defendants are fire inspectors for the City of Taylor. Plaintiff alleged that they were grossly negligent in investigating the cause of a fire at his home. Applying *White v Beasley*, 453 Mich 308; 552 NW2d 1 (1996), the trial court granted summary disposition based on the public duty doctrine, finding that defendants did not have a special relationship with plaintiff.

The Supreme Court reviewed the application of the public duty doctrine in *Beaudrie v Henderson*, 465 Mich 124; 631 NW2d 308 (2001). It found that courts have failed to develop an intellectually defensible line between public duties and actionable negligence. *Id.*, 138. The public duty doctrine was arguably inconsistent with the governmental immunity statute. *Id.*, 139. The Court concluded that it would continue to apply the public duty doctrine to cases involving an alleged failure to provide police protection, but that it would otherwise determine the liability

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

of public employees using the same common-law duty analysis applicable to private individuals. *Id.*, 141.

In light of *Beaudrie*, the public duty doctrine cannot be applied to these defendants. Their duty to plaintiff must be determined under common law principles, and any immunity from liability must be determined under the Governmental Immunity Act, MCL 691.1407.

Reversed and remanded for further proceedings. We do not retain jurisdiction.

/s/ Harold Hood

/s/ Henry William Saad

/s/ Edward M. Thomas