

STATE OF MICHIGAN  
COURT OF APPEALS

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LEWIS E. WILLIAMS,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

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UNPUBLISHED

July 19, 2002

No. 232060

Court of Claims

LC No. 00-017862-CM

Before: Talbot, P.J. and Cooper and D.P. Ryan\*, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion for summary disposition on governmental immunity grounds. We affirm.

Plaintiff brought this action seeking compensation for damage to his word processor that allegedly occurred while plaintiff was hospitalized. Plaintiff asserted that the word processor was intentionally destroyed by prison employees to prevent plaintiff from filing grievances and lawsuits. The trial court granted defendant's motion for summary disposition, finding that plaintiff failed to plead facts in avoidance of governmental immunity.

Tort immunity is broadly granted to governmental agencies engaged in the exercise or discharge of a governmental function. MCL 691.1407(1). A "governmental function" is an activity "expressly or impliedly mandated or authorized by constitution, statute, local charter or ordinance, or other law." MCL 691.1401(f), *Coleman v Kootsillas*, 456 Mich 615, 619; 575 NW2d 527 (1998). This definition only requires that there be some constitutional, statutory or other legal basis for the activity in which the agency was engaged. *Harris v University of Michigan Bd of Regents*, 219 Mich App 679, 684; 558 NW2d 225 (1996). The determination whether an activity is a governmental function must focus on the general activity and not the specific conduct involved at the time of the tort. *Pardon v Finkel*, 213 Mich App 643, 649; 540 NW2d 774 (1995).

Prior to *Ross v Consumers Power Co (On Rehearing)*, 420 Mich 567; 363 NW2d 641 (1984), judicial interpretation of "governmental function" established an intentional tort exception to governmental immunity. *Mosqueda v Macomb County Youth Home*, 132 Mich App 462, 467; 349 NW2d 185 (1984). However, the definition of governmental function announced

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

in *Ross* and confirmed by statute largely eliminated this exception. Generally, there no longer is an intentional tort exception to governmental immunity as to governmental units. *Harrison v Director of Dep't of Corrections*, 194 Mich App 446, 450; 487 NW2d 799 (1992).

Storing prisoners' property is a governmental function, and is covered by governmental immunity. Plaintiff did not plead facts in avoidance of governmental immunity. The trial court properly granted defendant's motion for summary disposition.

Affirmed.

/s/ Michael J. Talbot

/s/ Jessica R. Cooper

/s/ Daniel P. Ryan