

STATE OF MICHIGAN
COURT OF APPEALS

VICTOR J. BARTOLO,

Plaintiff-Appellant,

v

CITY OF DETROIT,

Defendants-Appellee.

UNPUBLISHED

June 22, 2004

No. 244571

Wayne Circuit Court

LC No. 00-009360-NO

Before: Saad, P.J., and Talbot and Borrello, JJ.

BORRELLO, J. (*concurring in part and dissenting in part*).

I respectfully dissent from the majority opinion in this matter because the trial court properly found that the pathway in question a sidewalk, stating:

And I'm finding as a matter of law that it was not a ramp. He was not on a ramp in any of these pictures. So if he's not on the State of Michigan's ramp, he is on the City of Detroit's *sidewalk* and access to the City of Detroit parking garage [(emphasis added).]

Contrary to the findings of the majority, I find that the pathway in question fits the definition of a sidewalk, as that term was defined by this Court in *Stabley v Huron-Clinton Metropolitan Park Authority*, 228 Mich App 363; 579 NW2d 374 (1988). The pathway is located in the right of way on the Lodge Freeway to specifically accommodate pedestrians as a sidewalk. Accordingly, I would reverse the trial court's order of summary disposition in this case and remand the matter to the trial court.¹

/s/ Stephen L. Borrello

¹ I concur with the majority's conclusion that the trial court improperly focused on the property rights to the walkway.