

STATE OF MICHIGAN  
COURT OF APPEALS

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SYLVIA TERRY,

Plaintiff-Appellee,

v

CITY OF DETROIT,

Defendant-Appellant.

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UNPUBLISHED  
February 28, 2008

No. 276172  
Wayne Circuit Court  
LC No. 06-612521-NI

Before: Whitbeck, P.J., and Jansen and Davis, JJ.

MEMORANDUM.

Defendant appeals as of right from a circuit court order denying its motion for summary disposition, which was based on governmental immunity. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff's complaint alleged that she slipped and fell while exiting the front door of a Detroit Department of Transportation bus. Plaintiff alleged that the steps of the bus were covered with snow and ice, and that the driver failed to maintain the steps in a reasonably safe condition, failed to warn the passengers about the peril, and failed to provide safe access and egress for the public.

Defendant moved for summary disposition, arguing that the motor vehicle exception to governmental immunity, MCL 691.1405, did not apply because plaintiff's allegations did not involve the "operation" of a motor vehicle, only improper maintenance. The trial court disagreed and denied defendant's motion.

This Court reviews de novo a trial court's decision on a motion for summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Defendant argues that this case is controlled by this Court's decision in *Martin v Rapid Inter-Urban Transit Partnership*, 271 Mich App 492; 722 NW2d 262 (2006), rev'd 480 Mich 936 (2007), which, like this case, involved a plaintiff who allegedly fell on the steps of a bus. Relying on *Chandler v Muskegon Co*, 467 Mich 315, 321; 652 NW2d 224 (2002), this Court concluded that the operation of a motor vehicle under MCL 691.1405 "encompasses only 'activities that are directly associated with the driving of a motor vehicle.'" *Martin, supra*, 498. Accordingly, this Court determined that the "plaintiff's allegations of negligence, i.e., failure to remove ice and snow or install step heaters, pertain more to improper maintenance than to

functions necessary for actual driving” and, therefore, did not involve the operation of a motor vehicle. *Id.*, 501.

Our Supreme Court recently peremptorily reversed this Court’s decision in *Martin*, explaining that “[t]he loading and unloading of passengers is an action within the “operation” of a shuttle bus.” *Martin v Rapid Inter-Urban Transit Partnership*, 480 Mich 936; \_\_\_ NW2d \_\_\_ (2007).

In this case, as in *Martin*, plaintiff alleges that defendant failed to maintain the steps of the bus in a reasonably safe condition and that she was injured while exiting the bus. In light of our Supreme Court’s order in *Martin*, plaintiff sufficiently pleaded a claim in avoidance of governmental immunity under the exception set forth in MCL 691.1405. The trial court properly denied defendant’s motion for summary disposition.

Affirmed.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Alton T. Davis