

STATE OF MICHIGAN  
COURT OF APPEALS

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MALIK TOSA,

Plaintiff-Appellee/Cross-Appellant,

v

GEORGE YONO,

Defendant-/Third Party Plaintiff-  
Appellant/Cross-Appellee,

and

JAMAL ODEESH and ATEF ASMARO,

Third-Party Defendants.

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UNPUBLISHED

March 18, 2008

No. 274301

Wayne Circuit Court

LC No. 05-516265-NO

Before: Whitbeck, C.J., and White and Zahra, JJ.

WHITE, J. (*concurring*).

Plaintiff made clear that his claim was not predicated on the hole in the parking lot surface, but the presence of the dog in the parking lot. I agree that the presence of the dog did not present a special aspect. See *Lugo v Ameritech Corp, Inc*, 464 Mich 512, 517-520; 629 NW2d 384 (2001).

I also agree that Yono had no duty to install a fence around the parking lot. The record established that the dogs frequented the neighborhood, not just the restaurant parking lot. And, while there were references to the garbage from the restaurant, there was no indication that Yono, the property owner, had control of the garbage or the method of its disposal, or that the parking lot or garbage bin attracted dogs to the neighborhood, as opposed to being among the areas in the neighborhood visited by the dogs.

I also agree that plaintiff failed to establish that a condition on the premises constituted a public nuisance.

/s/ Helene N. White