

STATE OF MICHIGAN  
COURT OF APPEALS

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LASHONDA DIXON, Personal Representative of  
the Estate of CHARLES DAWSON,

Plaintiff-Appellant,

v

CITY OF TAYLOR and LLOYD EDWARDS,  
a/k/a MATTHEW EDWARDS,

Defendants-Appellees.

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UNPUBLISHED  
April 27, 2010

No. 290074  
Wayne Circuit Court  
LC No. 08-101190-NO

Before: M. J. KELLY, P.J., and TALBOT and WILDER, JJ.

M. J. KELLY, P.J. (*concurring*).

I concur with the majority's decision to affirm. However, I write separately because I conclude that defendants were entitled to summary disposition under MCR 2.116(C)(8).

Having abandoned all her other counts, plaintiff's sole remaining cause of action before us on appeal is for gross negligence. See MCL 691.1407(2)(c) (creating an exception to governmental immunity for acts of gross negligence). In her complaint, plaintiff alleged that officer Edwards intentionally shot the decedent, Charles Dawson, eight times. There is no allegation that the shooting was accidental. As such, the claim is not—and cannot be—one for gross negligence. This Court has rejected attempts to transform claims involving elements of intentional torts into claims of gross negligence. See *Vanvorous v Burmeister*, 262 Mich App 467, 483-484; 687 NW2d 132 (2004); *Smith v Stolberg*, 231 Mich App 256, 258-259; 586 NW2d 103 (1998); *Sudul v Hamtramck*, 221 Mich App 455, 458, 477; 562 NW2d 478 (1997). Thus, as pleaded, plaintiff failed to state a claim on which relief could be granted and defendants were entitled to summary disposition in their favor under MCR 2.116(C)(8).

/s/ Michael J. Kelly