

STATE OF MICHIGAN
COURT OF APPEALS

STELLA DEPAUW, Personal Representative of the
Estate of ROBERT LOGAN, Deceased,

UNPUBLISHED
November 21, 1997

Plaintiff-Appellant,

v

No. 193911
Court of Claims
LC No. 95-015652 CM

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

Before: Jansen, P.J., and Fitzgerald and Young, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of the estate's wrongful death claim on the ground that the claim was barred by governmental immunity, MCR 2.116(C)(7). We agree with the trial court that the public building exception statute, MCL 691.1406; MSA 3.996(106), is inapplicable and, therefore, affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The governmental immunity statute affords significant immunity from tort liability arising from activities in which the governmental agency was engaged in the performance of a governmental function. MCL 691.1407(1); MSA 3.996(107)(1); *DeSanchez v Dep't of Mental Health*, 455 Mich 83, 94; 565 NW2d 358 (1997). One of the narrowly drawn exceptions to this broad grant of immunity is the public building exception. MCL 691.1406; MSA 3.996(106). Under the public building exception, governmental agencies have a duty to repair and maintain public buildings under their control when those buildings are open for use by the public. *DeSanchez, supra*. Liability arises when injuries are caused by a dangerous or defective condition in the building itself. Whether the physical condition of a given room is dangerous or defective must be determined in light of the uses or activities for which the room was specifically assigned. *DeSanchez, supra*, pp 90-91. A public building may be dangerous or defective because of improper design, faulty construction, or absence of safety devices. *Hickey v Zezulka (On Resubmission)*, 439 Mich 408, 422; 487 NW2d 106 (1992).

The room at issue in this case was designed and assigned for housing inmates placed in the general psychiatric population of the Comprehensive Care Unit of the Riverside Psychiatric Center

located within the Riverside Corrections Facility. The heating vent grating, like the heating unit and metal brackets in *Hickey*, is a benign physical feature of the room. The mere fact that the grating was used as part of a plan by someone desperately driven to self-destruction does not render the grating a dangerous or defective condition under the public building exception statute. *Hickey, supra*, p 426.

Affirmed.

/s/ Kathleen Jansen

/s/ E. Thomas Fitzgerald

/s/ Robert P. Young, Jr.