

STATE OF MICHIGAN
COURT OF APPEALS

JORGE A. ROSADO,

UNPUBLISHED

February 20, 1998

Plaintiff-Appellant,

v

No. 200997

Court of Claims

DEPARTMENT OF TRANSPORTATION,

LC No. 96-016468 CM

Defendant-Appellee.

Before: Michael J. Kelly, P.J., and Fitzgerald and M.G. Harrison*, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of his wrongful death action as being barred by government immunity. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

By statute, governmental agencies are immune from tort liability while engaging in a governmental function, except activities that fall within one of the narrowly drawn exceptions. *Mason v Wayne Co Bd of Comm'ers*, 447 Mich 130, 134; 523 NW2d 791 (1994), modified 451 Mich 1236 (1996). The highway exception specifically excepts the state from liability for defects in "installations outside the improved portion of the highway designed for vehicular traffic." MCL 691.1402(1); MSA 3.996(102)(1).

The duties of the state under MCL 691.1402(1) do not include the maintenance of street lights located adjacent to the highway because the lights constitute installations outside the improved portion of the highway and because the dark of night does not create a point of hazard that must be ameliorated by street lighting to insure that travel on the improved portion of the roadway can be reasonably safe. *Pick v Szymczak*, 451 Mich 607, 623-624 & n 17; 548 NW2d 603 (1996); *Scheurman v Department of Transportation*, 434 Mich 619, 623, 632-633, 636-637 (Riley, C.J.), 637 (Boyle, J.); 456 NW2d 66 (1990); *Baker v Wayne Co Bd of Road Comm'rs*, 185 Mich App 82; 460 NW2d 566 (1990). Accordingly, MCL 691.1402(1) is inapplicable in this case and defendant is not subject to

* Circuit judge, sitting on the Court of Appeals by assignment.

liability for failing to replace the burned out street lights along the exit ramp. As observed in *Mason, supra*, 137: “Pedestrians who trek upon Michigan highways must and do venture beyond the protective mandates of MCL 691.1402(1); MSA 3.996(102)(1).”

Affirmed.

/s/ Michael J. Kelly

/s/ E. Thomas Fitzgerald

/s/ Michael G. Harrison