

STATE OF MICHIGAN
COURT OF APPEALS

RAYMOND J. URBANIK, CARSTON SEALES,
BRENDA SEALES, THOMAS MATHER, CARL
TRIMARCHE, RICHARD KREMER and WILLIAM
A. HARTMAN,

UNPUBLISHED
April 3, 1998

Plaintiffs-Appellees,

v

No. 202126
Oakland Circuit Court
LC No. 96-522773-CZ

ATTORNEY GENERAL,

Defendant-Appellant.

Before: Hoekstra, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right from an order granting plaintiffs' motion for summary disposition pursuant to MCR 2.116(C)(10) and denying defendant's cross-motion for summary disposition. We reverse.

Plaintiffs are citizens of Oakland County possessing concealed weapon permits issued by a state other than Michigan. They filed this class action complaint seeking a declaratory judgment that two identical statutory exemptions grant a Michigan resident the right to carry a concealed weapon in Michigan pursuant to an out-of-state concealed weapon permit. Each provision states that MCL 750.227(2); MSA 28.424(2), which prohibits the carrying of a concealed pistol without a license, is inapplicable to "a person holding a valid license to carry a pistol concealed upon his or her person issued by another state." MCL 750.231a(1)(a); MSA 28.428(1)(1)(a), MCL 28.432; MSA 28.98. In granting plaintiffs' motion for summary disposition, the lower court held that the word "person" in the two exemptions includes Michigan residents. On appeal, defendant argues that the lower court's statutory interpretation was erroneous and that a proper interpretation precludes Michigan residents from carrying concealed weapons using out-of-state permits.¹ We agree with defendant. We review de novo a lower court's grant of summary disposition. *Stewart v Fairlane Community Mental Health Centre (On Remand)*, 225 Mich App 410, 415; 571 NW2d 542 (1997). We also review de

novo issues involving statutory interpretation. *Smeets v Genesee Co Clerk*, 193 Mich App 628, 633; 484 NW2d 770 (1992).

We recently decided this issue in *People v Williams*, ___ Mich App ___; ___ NW2d ___ (Docket No. 199847, issued November 25, 1997). There, this Court stated that when MCL 750.231a(1)(a); MSA 28.428(1)(1)(a) is read together with the licensing requirements for Michigan residents and in light of the general purpose of the CCW statute, the legislative intent in enacting MCL 750.231a(1)(a); MSA 28.428(1)(1)(a) was to make the exemption applicable only to nonresidents. *Id.* at slip op p 2. See MCL 28.426(1); MSA 28.93(1) (licensing requirements). This Court reasoned that the legislature would not have both enacted strict criteria for a Michigan resident to obtain a Michigan CCW license and exempted the resident from liability under the CCW statute if the resident obtained a permit from another state. Rather, this Court stated that “[i]t is more reasonable to assume that the exemptions in MCL 750.231a; MSA 28.248(1) are designed to apply to persons not covered by the licensing procedure in place for Michigan residents” and concluded that “the exemption in MCL 750.231a; MSA 28.428(1) does not apply to Michigan residents.” *Id.* at slip op p 3. Accordingly, the lower court in this case improperly granted plaintiffs’ motion for summary disposition.

Reversed.

/s/ Joel P. Hoekstra

/s/ Kathleen Jansen

/s/ Hilda R. Gage

¹ In the alternative, defendant argues that the lower court’s grant of summary disposition to plaintiffs was improper because plaintiffs’ claim is barred by application of the doctrine of collateral estoppel. Specifically, defendant asserts that plaintiffs are collaterally estopped from bringing the present suit because “similarly situated plaintiffs” brought an action in Wayne County Circuit Court in 1994 that included the identical issue currently being litigated. Because our holding in *Williams* is controlling authority in this case, we decline to review the merits of this argument.