

STATE OF MICHIGAN
COURT OF APPEALS

TYRA MATTOX-JOHNSON, Individually and
as Next Friend of LATRICE MATTOX
MITCHELL, a Minor,

UNPUBLISHED
April 14, 1998

Plaintiffs-Appellants,

v

CANDICE PAFF,

No. 199029
Wayne Circuit Court
LC No. 96-601936-NO

Defendant-Appellee.

Before: Gribbs, P.J., and Cavanagh and Saad, JJ.

MEMORANDUM.

In this premises liability action, plaintiffs appeal as of right the trial court's grant of summary disposition in favor of defendant pursuant to MCR 2.116(C)(8) and (C)(10). We affirm.

Plaintiffs allege that, by allowing a van and dumpster to be placed in the apartment parking lot, defendant created a dangerous condition which created an unreasonable risk of harm from criminal assault. Defendant contended that landlords do not have a duty to protect their tenants from criminal attacks in open parking lots. We agree with defendant.

A grant of summary disposition pursuant to MCR 2.116(C)(8) is reviewed de novo on appeal. *Hottmann v Hottmann*, 226 Mich App 171, 174; 572 NW2d 259 (1997). In *Stanley v Town Square Coop*, 203 Mich App 143, 151; 512 NW2d 51 (1993), the Court stated:

If a landlord or its predecessor has created a condition on the land presenting an unusual risk of criminal attack, the landlord has a duty to take reasonable measures to protect its invitees. This duty is limited and does not extend to providing security guards or to maintaining a boundary fence, because we do not require the possessor of land to anticipate and protect against the general hazard of crime in the community.

A landlord does not owe a duty to invitees to make open parking lots safer than adjacent public streets. *Id.* Whether a duty exists is a question of law for the court. *Rodis v Herman Kiefer Hosp*, 142 Mich App 425, 428-429; 370 NW2d 18 (1985).

The *Stanley* Court also stated:

The danger of falling victim to criminality in an open parking lot located outside a building is not a dangerous condition created by the possessor of the property, but is a dangerous condition inherent in the society in which we live. The risk of being criminally assaulted in the middle of the night in a poorly lit, unfenced parking lot in the Detroit Metropolitan area is real and certainly can be anticipated. However, that risk is as obvious and apparent to an invitee as it is to the land owner. In short, the danger to which invitees are exposed in a parking lot is the same danger to which they are exposed in the community at large. The landlord has done nothing to create a condition conducive to criminal assaults. [*Id.* at 150-151.]

The *Stanley* Court held that the landlord did not have a duty to protect the plaintiff, and thus was not liable for failing to do so. *Id.* at 151.

Here, defendant did not have a duty to protect plaintiffs from the criminal attack of a third party in defendant's open parking lot. Thus, plaintiffs failed to state a claim upon which relief may be granted and summary disposition was properly granted pursuant to MCR 2.116(C)(8). Because plaintiffs failed to state a claim upon which relief may be granted, we need not determine whether summary disposition was also properly granted under MCR 2.116(C)(10).

Affirmed.

/s/ Roman S. Gribbs
/s/ Mark J. Cavanagh
/s/ Henry William Saad