

STATE OF MICHIGAN
COURT OF APPEALS

ANNIE LEFLORE, Personal Representative of the
ESTATE OF TERRY S. LEFLORE, Deceased,

UNPUBLISHED
June 12, 1998

Plaintiff-Appellant,

v

CITY OF DETROIT, KEITH JACKSON, JOHN
DOE and MARY DOE,

No. 196106
Wayne Circuit Court
LC No. 93-331708 NO

Defendants-Appellees.

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

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of her wrongful death action pursuant to MCR 2.116(C)(10). This action arises from the shooting of plaintiff's decedent, Terry S. LeFlore, by Detroit police officer Keith Jackson after LeFlore pointed a handgun at Jackson and refused to discard the weapon when ordered to do so by several police officers. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendants' motion for summary disposition and its accompanying brief and exhibits satisfy the requirements of MCR 2.116(G).

Although summary disposition is rarely appropriate in cases involving questions of state of mind, *Michigan Nat'l Bk-Oakland v Wheeling*, 165 Mich App 738, 744-745; 419 NW2d 746 (1988), in light of the documentary evidence supplied by defendants, and giving plaintiff the benefit of reasonable doubt, the evidence does not leave open an issue upon which reasonable minds might differ, *Farm Bureau Mutual Ins Co of Michigan v Stark*, 437 Mich 175, 184-185; 468 NW2d 498 (1991). Reasonable minds could not differ but that the police were authorized to enter the residence pursuant to the emergency aid exception to the warrant requirement, *People v Davis*, 442 Mich 1, 20, 25-26; 497 NW2d 910 (1993); see *Mincey v Arizona*, 437 US 385; 98 S Ct 2408; 57 L Ed 2d 290 (1978), and that defendant Jackson's belief that he was in imminent danger of death or great bodily harm was reasonable and the shooting necessary to prevent the threatened harm, *Alexander v Riccinto*, 192

Mich App 65, 69; 481 NW2d 6 (1991); *Ealey v City of Detroit*, 144 Mich App 324, 332; 375 NW2d 435 (1985).

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage