

STATE OF MICHIGAN
COURT OF APPEALS

STEVEN J. VALCANIANT and KATHLEEN A.
VALCANIANT,

UNPUBLISHED
February 19, 2002

Plaintiffs-Appellees,

v

No. 227499
Lapeer Circuit Court
LC No. 98-025040-NI

DETROIT EDISON COMPANY,

Defendant-Appellant,

and

DE ANGELIS LANDSCAPE, INC.,

Defendant.

Before: Smolenski, P.J., and Doctoroff and Owens, JJ.

MEMORANDUM.

Defendant appeals by leave granted from the circuit court order denying its motion for summary disposition. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff Steven Valcaniant was injured by a downed electrical line. He was directing a driver who was delivering a load of fill dirt. The driver backed the truck under an electric wire, of which both he and plaintiff were aware. When the truck bed rose, it came into contact with the wire, which fell into a puddle near plaintiff. Plaintiff received an electrical shock, causing burns to his arm and back. Defendant moved for summary disposition, asserting that it owed no duty to plaintiff because his injury was unforeseeable. The trial court found that it was foreseeable that the public would be injured by downed power lines, and thus defendant owed plaintiff a duty.

Those engaged in the transmission of electricity “are bound to anticipate ordinary use of the area surrounding the lines and to appropriately safeguard the attendant risks.” *Schultz v Consumers Power Co*, 443 Mich 445, 452; 506 NW2d 175 (1993). The test to determine whether a duty was owed is whether the utility should have foreseen the probability that injury might result from any reasonable activity done on the premises for business, work, or pleasure. *Id.*

There is no duty to warn someone of a risk of which that person is aware. *Groncki v Detroit Edison Co*, 453 Mich 644, 656; 557 NW2d 289 (1996). Specifically, there is no duty to warn of known overhead power lines. *Id.* *Groncki* involved three consolidated cases. In *Parcher v Detroit Edison*, the plaintiff was injured while operating a forklift that came into contact with power lines at a construction site. *Id.* at 650. In *Groncki v Detroit Edison*, the plaintiff was a maintenance supervisor working on the roof of an apartment complex, when a ladder he was moving fell onto power lines. *Id.* at 651. In *Bohnert v Detroit Edison*, the plaintiff was delivering supplies to a construction site, and the boom he deployed from his truck came into contact with power lines. *Id.* at 652-653.

In *Parcher*, the Court found that summary disposition was properly granted to the defendant because it had no reason to know that any high profile machinery would be operated near its power lines. The events were unforeseeable and no duty arose. *Id.* at 657. In *Groncki*, the Court found that there was no duty where there were no defects in the lines and the plaintiff was an experienced workman who was fully aware of the dangers of electric lines. *Id.* at 658-659. In *Bohnert*, the Court found that it was not foreseeable that an experienced, skilled workman would disregard clear instructions and operate his delivery vehicle directly beneath the power lines. *Id.* at 659-660. The Court found that public policy of providing electric power at a reasonable cost militates against the imposition of a duty in these cases. *Id.* at 661-662. Applying the above principles, we conclude that defendant had no reason to foresee plaintiff's actions in this case. Because plaintiff's injury was not reasonably foreseeable, defendant owed plaintiff no duty to prevent it.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael R. Smolenski
/s/ Martin M. Doctoroff
/s/ Donald S. Owens