

STATE OF MICHIGAN
COURT OF APPEALS

PATRICIA BONNEAU,

Plaintiff-Appellant,

v

D AND A CORPORATION, d/b/a DEARBORN
FARM MARKET, and ARTHUR F. HUGHES,

Defendants-Appellees.

UNPUBLISHED
February 26, 2002

No. 227851
Wayne Circuit Court
LC No. 99-913781-NO

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

MEMORANDUM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition in this slip and fall case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff slipped and fell while shopping at the Dearborn Farm Market. After she fell, she noticed several loose grapes on the floor, a wet spot, and the residue of smashed grapes on her shoe. The trial court granted summary disposition, finding that plaintiff failed to present evidence that an employee caused the condition, or that defendants were aware of the condition prior to the fall.

The duties of a storekeeper to customers regarding dangerous conditions are well established:

It is the duty of a storekeeper to provide reasonably safe aisles for customers and he is liable for injury resulting from an unsafe condition either caused by the active negligence of himself and his employees, or, if otherwise caused, where known to the storekeeper or is of such character or *has existed a sufficient length of time that he should have had knowledge of it*. [*Clark v Kmart Corp*, 465 Mich 416, 419; 634 NW2d 347 (2001), quoting *Serinto v Borman Food Stores*, 380 Mich 637, 640-641; 158 NW2d 485 (1968).]

Plaintiff asserts the trial court erred in granting summary disposition where the injury was caused by defendants' active negligence. She argues that the store should not have displayed loose grapes, it failed to place nonskid mats in the area, the grapes were piled up instead of placed inside a bin, there was no warning about the hazard, and the store failed to adequately

police the area. However, plaintiff did not present expert evidence suggesting that defendants' conduct was negligent according to industry standards.

Regardless, none of these theories supports a finding that the *active* negligence of an employee caused the grapes to land on the floor. In addition, plaintiff failed to introduce any evidence suggesting how long the grapes were on the floor, thereby preventing a finding that defendant had constructive knowledge of the purportedly unsafe condition. In the absence of such proof, plaintiff's argument is based solely on conjecture and speculation. Because plaintiff failed to come forward with evidentiary proof to establish the existence of a genuine issue of material fact, summary disposition was appropriately granted. See *McCune v Meijer, Inc*, 156 Mich App 561; 402 NW2d 6 (1986).

Affirmed.

/s/ Michael R. Smolenski

/s/ Martin D. Doctoroff

/s/ Donald S. Owens