

STATE OF MICHIGAN
COURT OF APPEALS

TAVARES BROWN, Minor, by his Next Friend,
SHIRLEY BROWN,

UNPUBLISHED
December 11, 1998

Plaintiff-Appellant,

v

No. 205767
Wayne Circuit Court
LC No. 96-610281 NO

CITY OF DETROIT,

Defendant-Appellee,

and

TODD-PHILLIPS CHILDREN'S HOME OF
WOLVERINE STATE MISSIONARY BAPTIST
CONVENTION, INC.,

Defendant.

Before: Sawyer, P.J., and Wahls and Hoekstra, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the summary dismissal of his negligence action on the ground that the action is barred by governmental immunity. MCR 2.116(C)(7). We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court determined that defendant was entitled to immunity because broken glass on a public sidewalk did not constitute a defect in the sidewalk itself and the highway exception to governmental immunity, MCL 691.1402; MSA 3.996(102); MCL 691.1401(e); MSA 3.996(101)(e), did not apply in the absence of a defect in the sidewalk. The trial court reached the correct result, albeit for a wrong reason. *Gray v Pann*, 203 Mich App 461, 464; 513 NW2d 154 (1994).

Defendant provided the trial court with an excerpt from plaintiff's minor's deposition which reflects that plaintiff's minor testified that he slipped on broken glass located in the grass adjacent to the

street, fell into this grass and cut himself on the glass laying in the grass. Plaintiff is bound by this admission. *Kaufman & Payton, PC v Nikkila*, 200 Mich App 250, 256-257; 503 NW2d 728 (1993). This admission establishes that the public sidewalk played no role in plaintiff's minor's fall or injury. Absent the involvement of the sidewalk, the highway exception does not apply and defendant is entitled to immunity. *Scheurman v Dep't of Transportation*, 434 Mich 619, 630; 456 NW2d 66 (1990); *Cox v City of Dearborn Heights*, 210 Mich App 389, 392; 534 NW2d 135 (1995); *Messecar v City of Detroit*, 172 Mich App 519, 522; 432 NW2d 311 (1988). Accordingly, the trial court correctly determined that the highway exception was inapplicable on the facts of this case. We will not disturb a correct decision reached for the wrong reason. *Gray*, 203 Mich App at 464.

Affirmed.

/s/ David H. Sawyer

/s/ Myron H. Wahls

/s/ Joel P. Hoekstra