# STATE OF MICHIGAN
# COURT OF APPEALS

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SHARON WRIGHT,

Plaintiff-Appellant,

v

EDWARD BRADLEY and TERVONIA BRADLEY,

Defendants,

and

CITY OF SOUTHFIELD,

Defendant-Appellee.

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UNPUBLISHED
April 26, 1996

No.176846
LC No.93-459853

Before: Doctoroff, C.J., and McDonald and J.B. Sullivan,* J.J.

PER CURIAM.

In this slip and fall case, plaintiff Sharon Wright appeals as of right the order of the Oakland Circuit Court granting summary disposition to defendant City of Southfield. We affirm.

On January 1, 1993, at approximately 9:00 a.m., plaintiff slipped on ice while walking her dog on the sidewalk on Webster street in the City of Southfield. The ice was in a depression in the sidewalk where two slabs of concrete had settled, but the pavement was not broken or cracked. Plaintiff's complaint alleged that the ice was an unnatural accumulation, that the depression was purposely constructed by defendant and was a nuisance, and that defendant failed to correct the condition and failed to warn of the existence of the condition.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(7), (8) and (10). Our review is de novo to determine if defendant was entitled to judgment as a matter of law. *Allen v Keating*, 205 Mich App 560; 517 NW2d 830 (1994).

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*Former Court of Appeals Judge, sitting on the Court of Appeals by assignment pursuant to Administrative Rule 1995-6.

In contrast to the state and counties, the liability of municipalities under MCL 691.1402; MSA 3.996(102) is not limited to improved portions of highways designed for vehicular travel. Municipalities remain liable for defective construction or maintenance of their sidewalks. *Figueroa v Garden City,* 169 Mich App 619; 426 NW2d 727 (1988). However, the natural accumulation doctrine provides that a municipality has no liability for the natural accumulation of ice and snow unless the municipality has taken affirmative action to alter the natural accumulation thereby increasing the hazard, or has taken affirmative steps to alter the condition of the sidewalk thereby causing unnatural accumulation of ice. *Zielinski v Szokola*, 167 Mich App 611; 423 NW2d 289 (1988).

In this case, the trial court found that neither exception to the natural accumulation doctrine was applicable. The court based its decision in part on *Wesley v City of Detroit*, 117 Mich 658; 76 NW 104 (1898). In *Wesley*, the Court found that an inclined sidewalk which was not unsafe or dangerous in its original condition but was made unsafe solely by the accumulation of ice and snow did not give rise to liability for the defendant city. In *Hopson v City of Detroit*, 235 Mich 248; 209 NW 161 (1926), the plaintiff slipped on ice which had formed in a depression in the sidewalk. The Court reiterated the requirement that, without a defect in the sidewalk "rendering the walk not reasonably safe for public travel *at any time,"* the plaintiff could not recover. *Id*., at 250 (emphasis added).

In this case, plaintiff presented no evidence that the sidewalk was unsafe or dangerous in its original condition. Based on the documentary evidence before it, the trial court found that, although there was a dip in the sidewalk, it was neither cracked nor broken and was therefore not dangerous in its original condition. Based on *Wesley, supra*, and *Hopson, supra*, we conclude that the trial court did not err in granting summary disposition to defendant. We also conclude that the trial court was correct in dismissing plaintiff's nuisance claim. *Dykstra v Department of Transportation*, 208 Mich App 390; 528 NW2d 754 (1995).

Affirmed.

/s/ Martin M. Doctoroff
/s/ Gary R. McDonald
/s/ Joseph B. Sullivan