

STATE OF MICHIGAN
COURT OF APPEALS

THERMON MOORE,

Plaintiff–Appellee,

v

COUNTY OF MUSKEGON,

Defendant–Appellant,

and

CITY OF MUSKEGON, DEPUTY GILBERT PERO,
individually and as an employee of Muskegon County,
ROBERT W. SMITH, individually and as Chief of Police
for the City of Muskegon, OFFICER JIMMY FOX,
LT. KRAUSE, SHERIFF PENNINGTON, and
MUSKEGON COUNTY SHERIFF
DEPARTMENT,

Defendants.

UNPUBLISHED

September 13, 1996

No. 175608

LC No. 93-030008-NO

Before: Holbrook, P. J., and Saad and W. J. Giovan, JJ.*

MEMORANDUM.

Defendant Muskegon County alone appeals, by leave granted, from an order granting plaintiff's motion for appointment of counsel in the instant case and a companion case. We affirm.

Defendant argues that the trial court lacked authority to appoint counsel in a civil matter. We note that the order from which this appeal stems was issued following a March 28, 1994 hearing in the companion case. The trial court then held a similar hearing in the instant case on March 29, 1994. During the second hearing, the trial court repeatedly and specifically stated that it was incorporating its statements made on March 28, 1994 into its March 29, 1994 opinion. These statements caused the March 28, 1994 transcript to become a part of the record for the instant case.

Because the March 28, 1994 transcript is a part of the record, defendant had a duty to provide this transcript to us. MCR 7.210(A)(1). Although the transcript was not initially filed with the Court of Appeals, this transcript was later specifically requested by this Court. Nonetheless, defendant's counsel refused to provide this transcript to us. By failing to fulfill its duty, defendant rendered its only issue on appeal unpreserved. *Zwolinski v Dep't of Transportation*, 205 Mich App 532, 539; 517 NW2d 852 (1994). Consequently, we decline to review this issue.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Henry William Saad

/s/ William J. Giovan