

STATE OF MICHIGAN
COURT OF APPEALS

VICTOR VILLARINI,

Plaintiff-Appellant,

v

WAYNE COUNTY,

Defendant-Appellee.

UNPUBLISHED
December 3, 1996

No. 192644
LC No. 93-303592-NO

Before: Fitzgerald, P.J., and Cavanagh and N.J. Lambros,* JJ.

MEMORANDUM.

Plaintiff brought this action seeking damages for injuries allegedly suffered when paint and/or plaster chips fell into his eye while he was a resident of the Wayne County Jail. The trial court granted defendant's motion for summary disposition apparently pursuant to MCR 2.116(C)(10). Plaintiff appeals as of right. We affirm.

Plaintiff argues that the trial court erred in granting summary disposition because a question of fact existed as to whether the falling plaster and/or paint chips were a defect in a public building, thereby exposing defendant to liability under the public building exception to governmental immunity, MCL 691.1406; MSA 3.996(106). At the summary disposition hearing, defendant presented proof by affidavit that there was no defect in the public building in the area in which plaintiff claims to have been injured. Plaintiff presented no evidence in rebuttal by affidavit or otherwise that there was such a defect or that the tiny speck found in plaintiff's eye was in fact a plaster or a paint chip. Because plaintiff, as the opposing party, presented no evidence in response to defendant's affidavit, summary disposition for defendant was appropriate. *Skinner v Square D Co*, 445 Mich 153; 516 NW2d 475 (1994); *Int'l Brotherhood of Electrical Workers, Local Union No. 58 v McNulty*, 214 Mich App 437; 543 NW2d 25 (1995).

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ E. Thomas Fitzgerald

/s/ Mark J. Cavanagh

/s/ Nicholas J. Lambros