

STATE OF MICHIGAN
COURT OF APPEALS

LINDA ADKINS, as Personal Representative
of the Estate of ALBERT ADKINS,
Deceased,

UNPUBLISHED
December 6, 1996

Plaintiff-Appellant,

v

No. 189718
LC No. 93-333010

BARBARA MINK, a/k/a
BARBARA TRUMP,

Defendant,

and

AMERICAN LEGION-217, d/b/a
EDWARD C. HEADMAN POST,

Defendant-Appellee.

Before: Doctoroff, C.J., and Corrigan and Danhof,* JJ.

PER CURIAM.

Plaintiff appeals by right the grant of summary disposition to defendant American Legion-217, Headman Post, in this premises liability action. We affirm.

Plaintiff contends that the dramshop act, MCL 436.22; MSA 18.993, is not her exclusive remedy and that she presented sufficient evidence to establish a genuine issue of material fact regarding whether defendant was negligent in its hiring and supervision of its employee, Barbara Mink. We disagree. Plaintiff's complaint alleged three counts; only plaintiff's Count II is before this Court. Count I, involving the negligence of Ms. Mink, and Count III, plaintiff's dramshop claim, were resolved separately and are not renewed on appeal. In granting partial summary disposition on Count II, the circuit court reasoned that plaintiff's common law claim of negligent hiring and supervision involved the

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

sale or furnishing of intoxicants and thus was barred under *Millross v Plum Hollow Golf Club*, 429 Mich 178; 413 NW2d 17 (1987). The circuit court also held that plaintiff's decedent had left the premises one half-hour earlier with Ms. Mink when he jumped, fell, or was pulled in the Detroit River to aid Ms. Mink and Mr. Cyr and to recover Ms. Mink's purse. Plaintiff's decedent's behavior was not reasonably foreseeable.

We agree that plaintiff has not asserted a cause of action independent from the sale of liquor. All the allegations of failure to maintain safe premises are related to the sale of intoxicants. Accordingly, plaintiff's exclusive remedy is under MCL 436.22(11); MSA 18.993(11). We conclude that no record might be developed that would leave open an issue upon which reasonable minds might differ regarding plaintiff's claims of premises liability, negligent supervision and negligent hiring. *Radtke v Everett*, 442 Mich 368, 374; 501 NW2d 155 (1993); *Pickney Schools v Continental Casualty Co*, 213 Mich App 521, 525; 540 NW2d 748 (1995). Because plaintiff's allegations of negligent hiring and supervision and premises liability arise from the unlawful sale, giving away or furnishing of intoxicants, the dramshop act is plaintiff's exclusive remedy for these claims. *Millross v Plum Hollow Golf Club*, *supra*. Further, plaintiff presented no proofs regarding the proper standard of care for hiring bartenders, nor did plaintiff establish that defendant was deficient or otherwise departed from the appropriate standard of care in its hiring of its employee. See *Poe v City of Detroit*, 179 Mich App 564, 578-579; 446 NW2d 523 (1989); *Smith v Merrill Lynch Pierce Fenner & Smith*, 155 Mich App 230, 235; 399 NW2d 481 (1986).

Affirmed.

/s/ Martin M. Doctoroff

/s/ Maura D. Corrigan

/s/ Robert J. Danhof