

STATE OF MICHIGAN
COURT OF APPEALS

VINCENT ALVAREZ, Personal Representative of the
ESTATE OF ELIZABETH ALVAREZ, Deceased,

UNPUBLISHED
December 27, 1996

Plaintiff-Appellant,

v

No. 188462

Wayne Circuit Court
LC No. 94-432527-NO

NATIONAL BANK OF DETROIT,

Defendant-Appellee,

and

NATIONAL CASH REGISTER CORPORATION
and CIRRUS SYSTEMS,

Defendants.

Before: Holbrook, Jr., P.J., and White and A.T. Davis, Jr.,* JJ.

PER CURIAM.

Plaintiff appeals by right from an order of the circuit court granting defendant NBD summary disposition pursuant to MCR 2.116(C)(8) on plaintiff's action for premises liability. We affirm.

This action arose out of the shooting of plaintiff's decedent, Elizabeth Alvarez, while withdrawing money from defendant NBD's automated teller machine (ATM) located in the parking lot of defendant's bank. Plaintiff asserts that defendant owed a duty to its customers to design and build its ATMs so that criminal assailants could not hide behind the machines, and, further, that information regarding an increase in the danger of criminal activity should have been disseminated to NBD's ATM customers and business invitees. We find no merit to this claim.

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

As a general rule, business owners owe a duty to their customers to maintain their premises in a reasonably safe condition. However, no duty exists on the part of a business owner to provide armed, visible security guards to protect customers from criminal acts of third parties, notwithstanding that the business is located in a so-called high crime area of the community. *Williams v Cunningham Drug Stores, Inc*, 429 Mich 495, 500; 418 NW2d 381 (1988); *Fuga v Comerica Bank-Detroit*, 202 Mich App 380; 509 NW2d 77 (1993); *Papadimas v Mykonos Lounge*, 176 Mich App 40; 439 NW2d 28 (1989). Hence, unless the business owner actively creates or maintains the criminal activity, or fails to act reasonably to end criminal activity which takes place in the presence of employees who have the means at hand to end it, no liability will be incurred for criminal actions of third parties. *Fuga, supra* at 382 n 2.

Here, a review of the pleadings reveals no factual allegations that defendant NBD actively created or maintained criminal activity, or that it failed to act to end criminal activity taking place in the presence of employees who had the means to end it. Instead, plaintiff asserts that defendant should have provided an environment to protect customers from such activity occurring. Accordingly, plaintiff has failed to establish that defendant NBD owed a duty to plaintiff's decedent, and summary disposition was properly granted pursuant to MCR 2.116(C)(8).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Alton T. Davis, Jr.

I concur in result only.

/s/ Helene N. White