

STATE OF MICHIGAN
COURT OF APPEALS

ROBERT ROWE,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 185052

LC No. 93-325211-AV

CHILDREN'S HOSPITAL OF MICHIGAN,
RICHARD STINSON, and CHARLES ZARKIS,

Defendant-Appellants

and

TODD STRUTZ,

Defendant.

Before: Gribbs, P.J., and Saad and J. P. Adair,* JJ.

Saad, J. (*dissenting*).

I respectfully dissent. Here, the jury expressly found that defendants did not use unreasonable force, or put another way, that defendants used that force which was reasonable in this situation. If the force used was reasonable, then defendants met their obligations to plaintiff. "A criminal suspect who defies police authority does not thereby trigger some enhanced duty or obligation on the part of the police. The only limitation on the part of the police is the obligation not to use excessive force when apprehending or attempting to apprehend the suspect." *Jackson v Oliver*, 204 Mich App 122, 127; 514 NW2d 195 (1994).

I would reverse and remand with instructions to enter judgment notwithstanding the verdict on plaintiff's negligence claim.

/s/ Henry William Saad

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

