

STATE OF MICHIGAN
COURT OF APPEALS

GARY MICHAEL MELVIN,

Plaintiff-Appellant,

v

CITIZENS INSURANCE COMPANY OF
AMERICA,

Defendant-Appellee.

UNPUBLISHED

November 25, 1997

No. 199380

Wayne Circuit Court

LC No. 95-522761 NF

Before: Jansen, P.J., and Fitzgerald and Young, JJ.

MEMORANDUM.

Plaintiff's claim for uninsured motorist benefits was dismissed by the trial court on the basis of the Fireman's Rule, in light of plaintiff's position as a police officer and the fact that he was on duty at the time of the accident. The case was presented to the trial court and this Court on a stipulated statement of facts, which specifies that although plaintiff was on duty, he had received permission from his superior to conduct a brief personal errand in his patrol area, and he was engaged in this pursuit when his motorcycle collided with a second motor vehicle driven by an uninsured motorist. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At the time of plaintiff's injury, he was arguably on a break in the course of his duties, but in any event his occupation did not increase his risk of injury. Under these circumstances, the Fireman's Rule does not apply, and summary disposition was erroneously granted. *Atkinson v City of Detroit*, 222 Mich App 7; 564 NW2d 473 (1997).

Reversed and remanded to the Wayne Circuit Court for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Kathleen Jansen

/s/ E. Thomas Fitzgerald

/s/ Robert P. Young, Jr.