

STATE OF MICHIGAN  
COURT OF APPEALS

---

ERIC BRAVERMAN, Individually, and as Next  
Friend of CHRISTOPHER R. BARONSSON,

UNPUBLISHED  
May 12, 2005

Plaintiff-Appellant,

v

No. 253619  
Wayne Circuit Court  
01-117009-NO

DON BOSCO HALL,

Defendant-Appellee,

and

STEVE PELC, KAREN PELC, SPECTRUM  
HUMAN SERVICES, INC., DONNA ST. JOHN,  
KATHRYN F. ZYWICKI, JULIE LYSKOWA,  
f/k/a JULIE DEHRING, LENORA BROWN, and  
JOSEPH BONO, Ph. D.,

Defendants.

---

Before: O'Connell, P.J., and Markey and Zahra, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendant Don Bosco Hall's motion for summary disposition pursuant to MCR 2.116(C)(7). We affirm.

Plaintiff alleged that twin minors sexually assaulted minor plaintiff Baronsson while the twins resided in a foster home with him between December 1992 and January 1993. Defendant Don Bosco Hall temporarily housed the twins before releasing them to defendant Spectrum Human Services, Inc., which placed them in the foster home. Plaintiff claims defendant Hall was liable for failing to discover or alert Spectrum and other care providers that the twins had a history of being sexually abused and posed a risk of being sexually assaultive.

On appeal, plaintiff argues that the trial court erred in finding defendant Hall immune for its role in the placement of the twins in the foster home. We disagree. We review de novo a trial court's decision to grant summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

Plaintiff contends that the trial court erred in ruling that defendant was absolutely immune because defendant Hall was not acting in a “quasi-prosecutorial or quasi-judicial” role when it failed to warn Spectrum about the potential danger the twins posed to smaller children. Plaintiff argues that the line of federal cases underlying our decision in *Martin v Children’s Aid Society*, 215 Mich App 88, 97; 544 NW2d 651 (1996), have been recently limited to occasions where the social worker or placement agency acts as an official for the court, either by providing testimony or carrying out its orders. While this argument has some support, we have expanded the basic holding in *Martin* beyond its original facts and limited application. From it, we have extrapolated that childcare organizations are absolutely immune from potential civil liability arising out of their placement of a child into foster care. *Spikes v Banks*, 231 Mich App 341, 347; 586 NW2d 106 (1998). Our decision in *Spikes* represents binding authority, MCR 7.215(J)(1), and is not limited to “quasi-prosecutorial or quasi-judicial” actions. Rather, it categorically extends immunity to placement agencies for their efforts in placing children. *Spikes, supra*. Here, the state removed the twin minors from their parental home pursuant to a trial court order. The Family Independence Agency placed the twin minors with defendant Hall’s temporary shelter service. Defendant Hall then undertook a three-week assessment of the twins and created a “packet” of information on the minors to aid in their placement with a foster home. Because plaintiff assigns negligence to defendant Hall’s compilation of information as an aid to placing the children, defendant Hall enjoys immunity from their claims. *Spikes, supra*.

Nevertheless, plaintiff argues that the incidents of abuse allegedly occurred between 1992 and 1993, so *Martin*, decided in 1996, and *Spikes*, decided in 1998, are inapplicable here because both cases established rules that became common law well after. We disagree. In general we apply rules from judicial decisions retrospectively. *Michigan Educational Employees Mut Ins Co v Morris*, 460 Mich 180, 189-190; 596 NW2d 142 (1999). We only consider prospective or limited retroactive application where well-established law has been changed or a new rule of law is established from whole cloth and inequity would result from application of the new rule. *Id.* at 189-190. In *Martin, supra* at 95-96, we expressly based our decision on persuasive and longstanding federal authority, so the idea of granting immunity to foster-care workers was not novel in late 1992. Moreover, it is disingenuous to argue that either defendants, plaintiffs, or the principal offenders relied on a contrary understanding of the law when the relevant events unfolded. Therefore, we do not find any substantial inequity in this case, *Michigan Educational Employees Mut Ins Co, supra*, and apply retroactively the immunity we granted in *Spikes*.

Finally, plaintiff argues that *Spikes* is factually distinguishable from this case because *Spikes* only applies to situations arising from a defendant’s placement and supervision of a plaintiff. *Spikes, supra* at 343. We find this to be a distinction without any legally significant difference. The legal status of the placed child has no affect on the underlying public policy that “social workers must be allowed to act without fear of intimidating or harassing lawsuits . . . .” *Martin, supra* at 96. Therefore, we apply the concurrent rule that an organization is “absolutely immune from tort liability” for its efforts to place a child in a foster home. *Spikes, supra* at 347. Because the trial court held accordingly, it did not err.

Affirmed.

/s/ Peter D. O’Connell  
/s/ Jane E. Markey  
/s/ Brian K. Zahra