STATE OF MICHIGAN

COURT OF APPEALS

LANCE MICHAEL COREY,

Plaintiff-Appellant,

v

CARSON CITY HOSPITAL, FRANKLIN WEST, D.O., SARA HORRICKS, R.N., HANNA WILBER, R.N., and NICOLE DOOLITTLE, R.N.,

Defendants-Appellees.

UNPUBLISHED
March 13, 2014

No. 313439
Montcalm Circuit Court
LC No. 2011-015030-NH

Before: MARKEY, P.J., and WILDER and MURRAY, JJ.

PER CURIAM.

In this medical malpractice action, plaintiff appeals by right the trial court's order granting defendants summary disposition pursuant to MCR 2.116(C)(10). We affirm.

After suffering several days with a manic episode, plaintiff, who had a history of bipolar disorder, reported to the Carson City Hospital emergency room. At times, plaintiff was uncooperative with hospital staff. Two separate times plaintiff tried to flee the hospital. Plaintiff also refused to change out of his pants and into hospital attire, and he was not asked to hand over any personal items. After plaintiff's second attempt to escape from the hospital, he was locked in the hospital's "safe room" for psychiatric patients. While locked in the room, plaintiff produced a lighter and used it to trigger the sprinkler system. The police were then called; plaintiff calmed down, and he was then transferred to a mental facility. Plaintiff initially stated he triggered the sprinkler system just to get out of the room, but at his deposition, plaintiff stated that he thought he saw smoke. The hospital sustained $50,000 of water damage, and hospital staff wrote a letter to the local police chief encouraging prosecution of plaintiff for his actions.

A few weeks later, plaintiff was discharged from the mental facility. He was, however, arrested on charges of malicious destruction of property. After a psychiatric evaluation, plaintiff was determined legally insane at the time of the crime, and the criminal trial court accepted a plea of not guilty by reason of insanity. Plaintiff was sent to another mental hospital, where he spent nearly one year. After being discharged, plaintiff brought the instant suit, alleging that defendants' negligence in allowing him to keep his clothing and personal belongings caused him to use his lighter to trigger the sprinkler system, which then led to his arrest, jailing, and

confinement in a mental hospital. Plaintiff asserted that his being arrested, jailed, and confined in a mental hospital caused him mental pain and suffering, along with loss of employability and familiarity with family. Defendants moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that plaintiff's action was barred by the wrongful-conduct rule and that plaintiff had not presented a genuine issue of material fact with respect to either cause in fact or proximate cause. The trial court granted the motion on all three grounds. Although we find the wrongful-conduct rule inapplicable to the present case, we affirm because the trial court correctly decided that there was no genuine issue of material fact regarding proximate cause.

We review de novo a trial court's decision regarding a motion for summary disposition. *Jimkoski v Shupe*, 282 Mich App 1, 4; 763 NW2d 1 (2008). A motion for summary disposition pursuant to MCR 2.116(C)(10) "tests the factual sufficiency of the complaint." *Joseph v Auto Club Ins Assoc*, 491 Mich 200, 206; 815 NW2d 412 (2012). "In evaluating a motion for summary disposition brought under this subsection, a trial court considers affidavits, pleadings, depositions, admissions, and other evidence submitted by the parties, MCR 2.116(G)(5), in the light most favorable to the party opposing the motion." *Maiden v Rozwood*, 461 Mich 109, 120; 597 NW2d 817 (1999). Summary disposition is proper when the submitted evidence "shows that there is no genuine issue regarding any material fact and the moving party is entitled to judgment as a matter of law." *Jimkoski*, 282 Mich App at 4.

On appeal, plaintiff first argues that the wrongful-conduct rule was inapplicable to the present case. We agree. Under the "wrongful-conduct rule," an action based, in whole or in part, on the plaintiff's own illegal conduct is generally barred. *Orzel v Scott Drug Co*, 449 Mich 550, 558; 537 NW2d 208 (1995). For the wrongful-conduct rule to apply in a given case, "the plaintiff's conduct must be prohibited or almost entirely prohibited under a penal or criminal statute." *Id*. at 561. The criminal statute at issue in this case is MCL 750.377a(1)(a)(i), which provides that an individual is guilty of a felony where he "willfully and maliciously destroys or injures the personal property of another person," and the damage totals $20,000 or more. To be convicted of this offense, an accused must have intended to damage or destroy the property in question. *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999). Therefore, in order for plaintiff's conduct to be prohibited by the relevant statute, plaintiff must have intended to harm the hospital's property when he set off the sprinkler system.

We find that there was, at least, a genuine issue of material fact regarding whether plaintiff intended his actions for purposes of this civil suit. Plaintiff was found legally insane at the time of the actions, and a psychiatric evaluation of plaintiff revealed that he was unable to appreciate the wrongfulness of his actions. Moreover, plaintiff stated at his deposition that he thought he saw smoke in his room, so he triggered the sprinkler system. This evidence suggests that plaintiff may not have intended to destroy hospital property. Without that intent, plaintiff's conduct was not prohibited under a criminal statute. As such, there was a genuine issue of material fact regarding whether the wrongful-conduct rule was inapplicable, and summary disposition on this ground under MCR 2.116(C)(10) was inappropriate.

Nevertheless, because there was no genuine issue of material fact regarding causation, summary disposition was proper. A plaintiff must establish four distinct elements to establish a

medical malpractice cause of action:

> (1) the appropriate standard of care governing the defendant's conduct at the time of the purported negligence, (2) that the defendant breached that standard of care, (3) that the plaintiff was injured, and (4) that the plaintiff's injuries were the proximate result of the defendant's breach of the applicable standard of care. [*Craig v Oakwood Hosp*, 471 Mich 67, 86; 684 NW2d 296 (2004).]

The "proximate cause" element of a medical malpractice action, as with other torts, requires proof of "both cause in fact and legal (or 'proximate') cause." *Id*. Assuming without deciding that plaintiff presented a genuine issue of material fact regarding cause in fact, we agree there was no question of fact related to the legal or proximate cause prong of causation. Consequently, summary disposition was appropriate. *Helmus v Michigan Dept of Transportation*, 238 Mich App 250, 256; 604 NW2d 793 (1999) ("the trial court may dismiss a claim for lack of proximate cause when there is no issue of material fact").

"[L]egal cause or 'proximate cause' normally involves examining the foreseeability of consequences, and whether a defendant should be held legally responsible for such consequences." *Skinner v Square D Co*, 445 Mich 153, 163; 516 NW2d 475 (1994). "Proximate cause draws the line of liability at the probable and natural results of a defendant's negligent act." *Adas v Ames Color-File*, 160 Mich App 297, 303; 407 NW2d 640 (1987). We find that the "probable and natural results" of allowing plaintiff to keep his pants and personal belongings could not foreseeably include plaintiff's using the lighter to trigger the sprinkler system, which led to arrest, jail, confinement in a mental hospital, divorce, estrangement from his children, and embarrassment. Therefore, on de novo review, we agree with the trial court that no genuine issue of material fact existed regarding proximate cause.

Furthermore, we agree with defendants that, because all of plaintiff's alleged injuries and damages arise out of his prosecution, jailing, and confinement in a mental hospital, the prosecution of plaintiff was an intervening cause which cut off defendants' liability, if any. "An intervening cause is . . . one which actively operates in producing harm to another after the actor's negligent act or omission has been committed." *McMillan v Vliet*, 422 Mich 570, 576; 374 NW2d 679 (1985) (internal citation and quotation marks omitted). An intervening cause breaks the chain of causation and is a superseding cause that relieves the original actor of liability, unless it is found that the intervening act itself was reasonably foreseeable. *Id*.

Here, the fact that plaintiff would face criminal charges was no more reasonably foreseeable than were plaintiff's actions in activating the hospital's sprinkler system. Furthermore, where the police independently investigate a complaint and a prosecutor determines that probable cause exists to seek and obtain judicial authorization of a criminal prosecution, the matter is entirely outside the authority or control of the complainant. See *Wilson v Sparrow Health Sys*, 290 Mich App 149, 153; 799 NW2d 224 (2010). As a matter of law, "any causal contribution of [defendants] . . . to [plaintiff's] injuries was . . . cut off by the actions of the police and prosecutor . . . [which] constituted a superseding cause of plaintiffs' alleged injuries." *Id*. As such, the trial court correctly determined that no genuine issue of

material fact existed regarding proximate cause and properly granted defendants summary disposition.

We affirm.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Christopher M. Murray