

Order

Michigan Supreme Court
Lansing, Michigan

August 3, 2021

Bridget M. McCormack,
Chief Justice

163042 & (19)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

OMOLARA MAKINI, f/k/a MAHOGANY
J. MIGNON, f/k/a TIMIKA JANELLE
WILLIAMS,
Plaintiff-Appellant,

v

SC: 163042
COA: 356826
Oakland CC: 2019-178698-CZ

PEOPLE OF THE STATE OF MICHIGAN,
OAKLAND COUNTY SHERIFF'S OFFICE,
OAKLAND COUNTY PROSECUTOR, and
BRANDON KARSEN,
Defendants-Appellees.

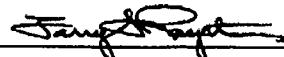
On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the May 26, 2021 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

b0726

August 3, 2021



Clerk

APPENDIX A

Court of Appeals, State of Michigan

ORDER

Omolara Makini v People of MI

Docket No. 356826

LC No. 2019-178698-CZ

Kathleen Jansen
Presiding Judge

Mark J. Cavanagh

Elizabeth L. Gleicher
Judges

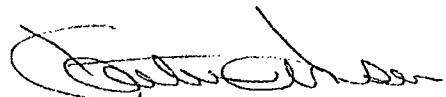
The motion for immediate consideration is GRANTED.

The motion to waive fees is GRANTED for this case only.

The motion to strike the appearance filed by opposing counsel is DENIED.

The motion for default judgment is DENIED.

The application for delayed appeal is DENIED for lack of merit in the grounds presented.



Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on



MAY 26 2021

Date



Chief Clerk

APPENDIX B

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OAKLAND

OMOLARA MAKINI f/k/a
MAHOGANY J MIGNON, aka
TIMIKA JANELLE WILLIAMS,

Case No: 2019-178698-CZ
HON. JEFFERY S. MATIS

Plaintiff,

v

PEOPLE OF THE STATE OF MICHIGAN
OAKLAND COUNTY SHERIFF'S OFFICE,
DEPUTY BRANDON KARSEN,
OAKLAND COUNTY PROSECUTING OFFICE,

Defendants.

**OPINION AND ORDER GRANTING DEFENDANTS' MOTION FOR SUMMARY
DISPOSITION**

This matter is before the Court on Defendants Motion for Summary Disposition. Plaintiff failed to file a Response in Opposition to Defendants' Motion for Summary Disposition despite the Court Order requiring Plaintiff to do so on or before December 4, 2020.¹ The Court finds that oral argument will not aid the Court in its decision. Pursuant to MCR 2.119(E)(3), there will be no oral argument. The hearing scheduled for February 10, 2021 is cancelled.

Plaintiff filed this lawsuit on December 23, 2019. On August 21, 2020 Plaintiff filed an "Amended Correct Complaint" that asserts the following counts: 1) Tampering with Evidence; 2) Police Brutality; 3) Excessive Force; 4) False Reports; 5) Negligence; 6) Illegal Detention; 7) Emotional Distress; and 8) Violation of Human Rights. As best as the Court can discern,

¹ See Order dated October 26, 2020.

Plaintiff's Amended Correct Complaint appears to seek relief for alleged tortious conduct of the Defendants in connection with Plaintiff's May 17, 2017 arrest. Plaintiff seeks damages and "acquittal and dismissal of the conviction of Plaintiff's national and state record of *Felony*:

Assault/Resisting/Obstructing Police Officer." Defendants now move for summary disposition of Plaintiff's Amended Correct Complaint pursuant to MCR 2.116(C)(7)², (C)(8)³, and (C)(10).⁴

First, Defendants assert that Plaintiff's claims against Deputy Brandon Karsan are time-barred pursuant to MCL 600.5805(9). Defendants provided authority and analysis to support their position. Plaintiff failed to respond to the motion. Pursuant to *Mitcham v City of Detroit*, 355 Mich 182, 203 (1959), it is not up to this Court to research and find authority to support Plaintiff's claim. Accordingly, it appears that summary disposition is warranted in favor of Defendants as to Plaintiff's claims against Defendant Deputy Brandon Karsan.

Next, Defendants asserts that Plaintiff failed to plead in avoidance of governmental immunity and that the remaining Defendants were engaged in a governmental function and,

² Summary disposition may be granted where, among other things, dismissal of the action is appropriate because of immunity granted by law. MCR 2.116(C)(7). When considering a motion for summary disposition under MCR 2.116(C)(7), "the trial court must accept as true the allegations of the complaint unless contradicted by the parties' documentary submissions." *Tenneco Inc v Amerisure Mut Ins Co*, 281 Mich App 429, 443 (2008). If the pleadings and documentary evidence reveal no genuine issues of material fact, the court decides whether a claim is barred as a matter of law. *Id.* at 443-444.

³ A motion under MCR 2.116(C)(8) tests the legal sufficiency of the Complaint. All well-pleaded factual allegations are accepted as true and construed in a light most favorable to the non-movant. *Wade v Dept of Corrections*, 439 Mich 158 (1992). A motion under MCR 2.116(C)(8) may be granted only where the claims alleged are "so clearly unenforceable as a matter of law that no factual development could possibly justify recovery." *Id.* at 163. "When deciding a motion brought under this section, a court considers only the pleadings. MCR 2.116(G)(5)." *Maiden v Rozwood*, 461 Mich 109 (1999).

⁴ A motion under MCR 2.116(C)(10) tests the factual basis of Plaintiff's complaint and shall be granted if no genuine issue of material fact exists (except as to damages). A court must examine the pleadings, affidavits, depositions, admission, and any other evidence in favor of the opposing party, granting the benefit of any reasonable doubt to the opposing party, *Smith v Globe Life Ins Co*, 460 Mich 446, 454; 597 NW2d 28 (1999). Initially, the moving party retains the burden of supporting its position by the above evidentiary proofs, but the burden then shifts to the opposing party to establish a genuine issue of material fact. *Id.* The Court shall grant summary disposition if the opposing party fails to present documentary evidence to establish the existence of a genuine issue of material fact. *Id.*

therefore, entitled to governmental immunity. Defendants provided authority and analysis to support their position. Again, Plaintiff failed to respond to the motion. As noted above, pursuant to *Mitcham*, 355 Mich at 203, it is not up to this Court to research and find authority to support Plaintiff's claim. Accordingly, it appears that Defendants are entitled to summary disposition on this basis as well.

Finally, Defendants state that Count 8 of Plaintiff's Amended Correct Complaint asserts a number of allegations related to Plaintiff's involuntary commitment and/or treatment at the Center for Forensic Psychiatry. Defendant argues that there is no dispute that Plaintiff was ordered to submit to involuntary psychiatric care as a result of an underlying criminal case. Defendants further argue that to the extent that Plaintiff's Amended Correct Complaint could be construed as alleging that any of the Defendants participated in any portion of her medical care, those actions were taken pursuant to a lawful court order. The Court, having reviewed the documentation submitted in support of Defendants' motion, and there being no response filed by Plaintiff in opposition, finds that Plaintiff failed to meet her burden of evidencing a genuine issue of material fact for trial in this regard. Consequently, summary disposition is appropriate pursuant to MCR 2.116(C)(10) and *Smith*, 460 Mich at 454-55 (1999).

Accordingly, for the reasons stated above, Defendants' Motion for Summary Disposition is GRANTED pursuant to MCR 2.116(C)(7), (C)(8), and (C)(10). Plaintiff's "Amended Correct Complaint" is DISMISSED in its entirety.

This is a final order and closes the case.

IT IS SO ORDERED.

Date: 2/5/2021

/s/ Jeffery S. Matis
JEFFERY S. MATIS
CIRCUIT COURT JUDGE yw

**Additional material
from this filing is
available in the
Clerk's Office.**