STATE OF MICHIGAN

COURT OF CLAIMS

ANDRICA CAGE, as Personal Representative of the ESTATE OF SAMUEL STERLING (deceased),

Plaintiff,

v

Case No. 25-000010-MZ

MICHIGAN STATE POLICE,

Hon. James Robert Redford

Defendant.
_____ /

OPINION AND ORDER DENYING DEFENDANT'S 3/5/25 MOTION FOR SUMMARY DISPOSITION

This is a negligence case arising under the motor vehicle exception to governmental immunity. On March 5, 2025, in lieu of an answer, defendant Michigan State Police (MSP) moved for summary disposition under MCR 2.116(C)(7) and MCR 2.116(C)(10), arguing that the vehicle involved in the death of Samuel Sterling was *not* owned by the MSP and, therefore, the motor vehicle exception was inapplicable. The Court heard oral argument on November 25, 2025.

Although there is evidence that the subject vehicle was titled to a federal agency, title to a vehicle is not the only means of establishing ownership in Michigan. Plaintiff presented sworn testimony from a state officer that the MSP owned the vehicle. That officer later recanted his statement, but this creates a question of credibility that cannot be resolved in a summary disposition motion. At this stage in the proceedings, ownership of the vehicle remains a question of fact precluding summary disposition. The Court DENIES defendant's motion.

I. BACKGROUND

On April 17, 2024, MSP Detective Sergeant Brian Keely struck Sterling as he fled pursuing officers on foot. Sterling died as a result of injuries sustained. Keely was working as a duly authorized and sworn Special Deputy in a federal fugitive taskforce apprehension team lead by the United States Marshall Service (USMS). Keely was driving an unmarked 2021 Hyundai Palisade when he struck Sterling, and pinned him against a building.

Plaintiff filed this suit against the MSP under the motor vehicle exception to governmental immunity. MCL 691.1405 states: "Governmental agencies shall be liable for bodily injury and property damage resulting from the negligent operation by any officer, agent, or employee of the governmental agency, of *a motor vehicle of which the governmental agency is owner*, as defined in" MCL 257.1 *et seq*. (Emphasis added.) Defendant seeks summary disposition, contending that Keely was acting under the control of the USMS and, therefore, was not a state agent at the time of Sterling's death. Defendant further contends that the state did not own the vehicle operated by Keely. Rather, it was owned by the USMS.

In support of its motion, defendant presented a California Certificate of Origin for the vehicle naming "US Fleet Source" as the owner. Defendant also presented an affidavit from the USMS authored by Supervisory Deputy United States Marshall Matthew Ortiz attesting that Keely was "using equipment and vehicles owned and resources provided by the [USMS]" on April 17, 2024, as well as Ortiz's testimony in a federal proceeding that the vehicle was owned by the USMS. Defendant also presented affidavits from the Michigan Department of State Enforcement Division Director; the MSP Manager of the Fleet and Fixed Asset Unit; and the Michigan Department of Technology, Management and Budget Director of the Office of Support Services

for Vehicle and Travel that the subject vehicle was never titled in Michigan, was never owned by the MSP, and was never part of the fleet of vehicles owned or leased by the state.

Plaintiff contends there is a question of fact regarding ownership of the vehicle in question. In response to defendant's summary disposition motion, plaintiff presented a partial transcript from the state court preliminary examination in a criminal action against Keely. Specifically, plaintiff relies upon testimony from MSP Sergeant Allan Avery, who served as an accident reconstruction specialist in that case, that the state owned the vehicle:

> Q. Did you eventually find out who did own the vehicle?
>
> A. We did, yes.
>
> Q. And who - - who was the owner?
>
> A. So, it's actually the state of Michigan owns it, but it was purchased by the federal government and then given to the state.

Approximately one month after plaintiff filed suit, and almost a year after Sterling's death, Sergeant Avery drafted a supplemental incident report stating, "Originally, it was believed that the owner of the 2021 Hyundai was the State of Michigan. The vehicle was believed to have been purchased by the US Government and turned over to the State of Michigan." Sergeant Avery asserted that he had since reviewed the vehicle's title and discovered that the USMS insured the vehicle. Sergeant Avery prepared a corrected traffic crash report identifying the federal government as the vehicle's owner.

II. SUMMARY DISPOSITION

Summary disposition is supported under MCR 2.116(C)(7) when a claim is barred by immunity granted by law. The Court "must accept all well-pleaded factual allegations as true and construe them in favor of the plaintiff, unless other evidence contradicts them." *Dextrom v*

Wexford Co, 287 Mich App 406, 428; 789 NW2d 211 (2010). "If any affidavits, depositions, admissions, or other documentary evidence are submitted, the court must consider them to determine whether there is a genuine issue of material fact." *Id.* at 429.

"A motion under MCR 2.116(C)(10), on the other hand, tests the *factual sufficiency* of a claim." *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 160; 934 NW2d 665 (2019) (cleaned up). "The trial court is not permitted to assess credibility, weigh the evidence, or resolve factual disputes, and if material evidence conflicts, it is not appropriate to grant a motion for summary disposition under MCR 2.116(C)(10)." *Pioneer State Mut Ins Co v Dells*, 301 Mich App 368, 377; 836 NW2d 257 (2013). The same is true when determining whether there are genuine issues of material fact precluding summary disposition on governmental immunity grounds. Summary disposition is warranted under (C)(10) if, when reviewing the evidence in the light most favorable to the nonmoving party, there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. *El-Khalil*, 504 Mich at 160.

III. ANALYSIS

Ownership of a motor vehicle for purposes of the motor vehicle exception to governmental immunity is determined by the definition of "owner" in MCL 257.37 of the Motor Vehicle Code. That statute provides:

> "Owner" means any of the following:
>
> (a) Any person, firm, association, or corporation renting a motor vehicle or *having the exclusive use* thereof, under a lease or otherwise, *for a period that is greater than 30 days*.
>
> (b) Except as otherwise provided in section 401a, a person who holds the legal title of a vehicle.

(c) A person who has the immediate right of possession of a vehicle under an installment sale contract. [Emphasis added.]

Defendant presented a California title document naming a federal agency as the subject vehicle's owner, as well as affidavits from various state officials attesting that no Michigan state agency held title to the vehicle. However, title ownership under MCL 257.37(b) is not the only way to become the "owner" of a vehicle in this state.

To contradict defendant's evidence, plaintiff presented the sworn testimony of an MSP sergeant from Keely's preliminary examination in a criminal proceeding arising from the events underlying this action. That witness testified that he "f[ou]nd out" who owned the vehicle while investigating the accident. Moreover, the parties' arguments at the November 25, 2025 hearing made clear that there remain questions of fact about the actual nature and extent of Keely's use of the subject vehicle, as opposed to how Keely was supposed to limit his use of the vehicle per the taskforce agreement, leaving open questions about whether the MSP had exclusive use of the vehicle for more than 30 days.

Discovery has yet to be conducted in this case. The evidence may well establish that although Keely remained a state employee, he was working exclusively under the supervision and control of the USMS and used the vehicle in question solely in the course of his federal taskforce duties. But the evidence may also demonstrate that Keely had used the vehicle in such a manner that the MSP had exclusive control and, therefore, ownership of the vehicle. This factual question precludes summary disposition at this time.

Accordingly, the Court DENIES defendant's March 5, 2025 motion for summary disposition.

Date: December 30, 2025

James Robert Redford
Judge, Court of Claims