

STATE OF MICHIGAN
COURT OF APPEALS

CHRISTIAN DAVISON,
Plaintiff-Appellant,

UNPUBLISHED
April 19, 2002

v

GARY GEERING and WILLIAM DORMAN,
Defendants-Appellees.

No. 228902
Benzie Circuit Court
LC No. 99-005580-NI

Before: Gage, P.J., and Griffin and G. S. Buth*, JJ.

PER CURIAM.

Plaintiff appeals as of right the order granting defendants' motion for summary disposition under MCR 2.116(C)(10). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff sustained back injuries in a traffic accident that occurred on June 2, 1996. Although his complaint alleged injuries to his cervical, thoracic, and lumbar spine, in his deposition, he testified that the June 1996 accident affected only his mid-back, causing pain and reduced range of motion. Plaintiff had previous back problems, and he was involved in three other traffic accidents, before and after this incident. The trial court granted defendants' motion for summary disposition, ruling that plaintiff failed to establish an objectively manifested injury attributable to this accident.

A motion under MCR 2.116(C)(10) tests the factual sufficiency of the complaint. *Maiden v Rozwood*, 461 Mich 109; 597 NW2d 817 (1999). In evaluating the motion, the court considers the evidence submitted by the parties in a light most favorable to the party opposing the motion. *Id.*

Under MCL 500.3135 a person remains subject to tort liability for noneconomic loss caused by his use of a motor vehicle only if the injured person has suffered death, serious impairment of body function, or permanent serious disfigurement. The issue whether an injured person has suffered serious impairment of body function is a question of law if there is no factual dispute concerning the nature and extent of the person's injuries, or if there is a dispute that is not material to the determination. MCL 500.3135(2)(a).

* Circuit judge, sitting on the Court of Appeals by assignment.

In determining whether a plaintiff has suffered a serious impairment of body function, the trial court must consider the nature and extent of the injuries. *May v Sommerfield*, 239 Mich App 197, 202-203; 607 NW2d 422 (1999). The court is required to make appropriate findings whether the plaintiff has an objectively manifested injury, whether an important body function is impaired, and whether that impairment affects the plaintiff's general ability to lead his normal life. *Id.*; *Miller v Purcell*, 246 Mich App 244; 631 NW2d 760 (2001).

Plaintiff's injuries from this accident consisted of a decreased range of motion and pain on bending and twisting. Those injuries were not objectively manifested. Plaintiff's experts could not specify which accident caused plaintiff's ultimate condition, and could only state that his condition was the end result of all three incidents. Given the evidence presented, the trial court did not err in granting defendant's motion for summary disposition. *Kern v Blethen-Coluni*, 240 Mich App 333; 612 NW2d 838 (2000).

Affirmed.

/s/ Hilda R. Gage
/s/ Richard Allen Griffin
/s/ George S. Buth