STATE OF MICHIGAN

COURT OF APPEALS

GREGORY DENNIS KENNETT and ELAINE COTTRELL, Next Friend of JESSICA KENNETT, Minor, Plaintiffs-Appellants,	UNPUBLISHED November 25, 2003
v	No. 241673 Genesee Circuit Court
HORACE MANN INSURANCE COMPANY, Defendant-Appellee.	LC No. 01-070409-NF

Before: Cooper, P.J., and Markey and Meter, JJ.

PER CURIAM.

Plaintiffs appeal as of right from a circuit court order granting defendant's motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's insured, Charles Muma, parked his car in the outside right lane of Center Road, which had been closed off for parking during a local festival. On May 29, 2000, at about 11:00 a.m., plaintiff Gregory Kennett drove his motorcycle into the back end of Muma's vehicle, and he and his passenger, Jessica Kennett, were injured. At issue here is whether Muma's car was unreasonably parked so as to bring this case within the exception to the parked vehicle exclusion of coverage. See MCL 500.3106(1)(a). The trial court ruled that Muma's vehicle was not unreasonably parked and granted judgment for defendant.

"[W]here the facts are undisputed, the determination of whether an automobile is parked in such a way as to create an unreasonable risk of bodily injury within the meaning of §3106(1)(a) is an issue of statutory construction for the court." *Wills v State Farm Ins Co,* 437 Mich 205, 208; 468 NW2d 511 (1991). The trial court's ruling on a motion for summary disposition is reviewed de novo. *Kefgen v Davidson,* 241 Mich App 611, 616; 617 NW2d 351 (2000).

A person is entitled to personal protection insurance benefits "for accidental bodily injury arising out of the ownership, operation, maintenance or use of a motor vehicle as a motor vehicle, subject to the provisions of this chapter." MCL 500.3105(1). Accidental bodily injury does not arise out of the ownership, operation, maintenance, or use of a parked vehicle as a

motor vehicle unless the "vehicle was parked in such a way as to cause unreasonable risk of the bodily injury which occurred." MCL 500.3106(1)(a).

If a vehicle is parked off the road, it is not unreasonably parked even though it may be illegally parked. *United Southern Assurance Co v Aetna Life & Cas Ins Co,* 189 Mich App 485, 490-492; 474 NW2d 131 (1991). If a vehicle is parked mostly off the road but protrudes into the roadway, it is unreasonably parked. *Hackley v State Farm Mut Auto Ins Co,* 147 Mich App 115, 117-118; 383 NW2d 108 (1985). Moreover, this Court has held that if a vehicle is parked on the road in an area designated for parking, it is not unreasonably parked even though it may be illegally parked. *Autry v Allstate Ins Co,* 130 Mich App 585, 594-595; 344 NW2d 588 (1983). If a vehicle is parked on the road in an area not designated for parking, it is unreasonably parked. *Amy v MIC Gen Ins Corp,*258 Mich App 94, 134; 670 NW2d 228 (2003); *Lankford v Citizens Ins Co of America,* 171 Mich App 413, 415-416; 431 NW2d 59 (1988).

Muma had parked on the road in what was normally a through lane for traffic that had been temporarily closed and designated for parking. He parked in a spot as directed by the police at a time when the road was closed to through traffic. He was parked in "a safe and prudent" manner, *Autry, supra* at 594, in that his car was within the designated parking lane and marked by traffic cones. He was not required to have his lights on as provided by MCL 257.694 because the road was closed. See *Rytkonen v Wakefield,* 364 Mich 86, 93-94; 111 NW2d 63 (1961). While there is some question as to whether the road was still closed to through traffic at the time of the accident, the opening of the road was the responsibility of the city, not defendant's insured, who had parked in a designated parking area while the road was closed. The police had the situation under control and had evidently determined that it was safe. Under these circumstances, we find that defendant's insured's vehicle was not unreasonably parked. *Autry, supra*.

Plaintiffs contend that the trial court should not have granted judgment because there were disputed issues of fact to be determined. Plaintiffs waived any claim of error by asserting that they were entitled to judgment under MCR 2.116(I)(2). See, generally, *Living Alternatives for the Developmentally Disabled, Inc v Dep't of Mental Health,* 207 Mich App 482, 484; 525 NW2d 466 (1994). Moreover, their briefing of the issue is vague and unspecific and thus inadequate. See *FMB-First Michigan Bank v Bailey,* 232 Mich App 711, 717; 591 NW2d 676 (1998).

Affirmed.

/s/ Jessica R. Cooper
/s/ Jane E. Markey
/s/ Patrick M. Meter