

STATE OF MICHIGAN
COURT OF APPEALS

AMANDA CRAIG, f/k/a AMANDA
SPRINGSTEEN,

UNPUBLISHED
February 12, 2004

Plaintiff-Appellant,

v

THERESA ANN SMEADER and JOHN DOE,

No. 243513
Lapeer Circuit Court
LC No. 01-029720-NI

Defendants-Appellees.

Before: Cooper, P.J., and O’Connell and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court’s order granting the motion for summary disposition filed by defendant Smeader and dismissing the case in its entirety. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On April 2, 1999 the vehicle plaintiff was driving was struck by a vehicle that had been owned and/or operated by defendants. She was transported to the hospital, where x-rays revealed that she had sustained non-displaced fractures of the C7 and T1 vertebrae. Plaintiff spent one night in the hospital and wore a soft brace for a short time.

In March 2001, plaintiff filed suit alleging that the injuries she sustained in the accident resulted in a serious impairment of body function. Defendant Smeader moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that no evidence showed that plaintiff suffered an objectively manifested impairment of an important body function that affected her ability to lead her normal life. The trial court granted the motion, finding that the evidence did not create a question of fact as to whether plaintiff’s injuries affected her ability to lead her normal life, and dismissed the case.

We review a trial court’s decision on a motion for summary disposition de novo. *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

A serious impairment of body function is “an objectively manifested impairment of an important body function that affects the person’s general ability to lead his or her normal life.” MCL 500.3135(7). For an impairment to be objectively manifested, there must be a medically identifiable injury or a condition that has a physical basis. *Jackson v Nelson*, 252 Mich App 643, 652-653; 654 NW2d 604 (2002). Whether a person has suffered a serious impairment of body

function is a question of law for the court if there is no factual dispute concerning the nature and extent of the injuries. MCL 500.3135(2)(a)(i). Alternatively, the issue presents a question of law for the court if there is a factual dispute concerning the nature and extent of the injuries but the dispute is not material to whether the plaintiff has suffered a serious impairment of body function. MCL 500.3135(2)(a)(ii).

In determining whether the impairment of the important body function is serious, the court should consider factors such as the extent of the injury, the treatment required, the duration of the disability, and the extent of residual impairment and prognosis for eventual recovery. *Kern v Blethen-Coluni*, 240 Mich App 333, 341; 612 NW2d 838 (2000). In assessing the extent of the injury, a court may compare the plaintiff's lifestyle before and after the injury. *May v Sommerfield (After Remand)*, 240 Mich App 504, 506; 617 NW2d 920 (2000).

The trial court properly analyzed the factors set forth in *Kern, supra*, to determine if a question of fact existed as to whether plaintiff's injury affected her ability to lead her normal life. An injury, even if objectively manifested and related to an important body function, does not constitute a serious impairment of body function if it does not adversely affect the injured person's general ability to lead his or her normal life. MCL 500.3135(7). Various factors, including those cited in *Kern, supra*, are relevant to determining whether an injury affected the person's general ability to lead his or her normal life.

The undisputed evidence established that, after the accident, plaintiff wore a soft cervical collar for approximately one month and took prescription pain medication for a short time. She had several follow-up consultations with physicians, but required virtually no further treatment. After one month she resumed normal activities. In her deposition, plaintiff stated that she felt pain in her neck from time to time; however, lingering pain, in and of itself, does not create an issue of fact as to whether an injury has resulted in a serious impairment of body function. See *Kallio v Fisher*, 180 Mich App 516, 518-519; 448 NW2d 46 (1989). Plaintiff had no physician-imposed restrictions on her activities. She acknowledged that she was able to engage in any activity she wished without restrictions. No evidence showed that plaintiff's general ability to lead her normal life was adversely affected by her injury from the accident. *Kreiner v Fischer, (On Remand)*, 256 Mich App 680, 686-687; 671 NW2d 95 (2003). Absent such evidence, plaintiff was unable to make out a prima facie case that she suffered a serious impairment of body function. The trial court did not err by determining that the issue of whether plaintiff suffered a serious impairment of body function was a question of law. MCL 500.3135(2)(a); *May, supra*.

Affirmed.

/s/ Jessica R. Cooper
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood