

STATE OF MICHIGAN
COURT OF APPEALS

AYMAN RIDA,

Plaintiff-Appellant,

v

DONNA YOUNG and MEGHANN YOUNG,

Defendants-Appellees.

UNPUBLISHED

June 17, 2004

No. 247629

Oakland Circuit Court

LC No. 2002-038542-NI

Before: Griffin, P.J., and Cavanagh and Fort Hood, JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's order granting defendants' motion for summary disposition on the ground that plaintiff failed to establish a "serious impairment of body function" under MCL 500.3135(1) of the no-fault act. We affirm.

On May 15, 2000, plaintiff was involved in a motor vehicle accident with defendant Meghann Young and allegedly suffered injuries to his neck, back and left knee. On February 20, 2002, plaintiff filed this no-fault action. On November 26, 2002, defendants filed their motion for summary disposition, pursuant to MCR 2.116(C)(10), arguing that plaintiff failed to prove he suffered "an objectively manifested impairment of an important body function that affects the person's general ability to lead his or her normal life" as required under MCL 500.3135(7). In particular, defendants argued that an MRI of plaintiff's lower back yielding normal results and physical examinations revealing only muscle spasms substantiated their contention that plaintiff did not objectively manifest a serious injury of an important body function. Defendants further argued that plaintiff failed to establish a general inability to lead his normal life, and asserted that plaintiff's lifestyle had, in fact, improved following the accident.

In response to defendants' motion for summary disposition, plaintiff argued that he suffered the requisite degree of injury in that he was diagnosed with cervical and lumbar strain and myofascitis, and was disabled from work for approximately nine months following the accident. After oral argument, the trial court granted defendants' motion holding, in pertinent part, that "plaintiff has not demonstrated that he received a serious impairment. . . . Even if the court were to infer that plaintiff's [chief complaint of] muscle spasms affected an important body function, it does not establish the seriousness requirement. Additionally, plaintiff has not presented evidence that his mode of living has been significantly altered." Plaintiff appeals.

Plaintiff argues that summary disposition was improper because there was a factual dispute as to whether plaintiff suffered the requisite degree of injury and the requisite inability to generally lead his normal life. We disagree. This court reviews the grant or denial of a motion for summary disposition de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). A motion for summary disposition under MCR 2.116(C)(10) tests the factual support for a claim and should be granted when, considering the documentary evidence in a light most favorable to the nonmoving party, there is no genuine issue of disputed material fact. *Ottaco, Inc v Gauze*, 226 Mich App 646, 650; 574 NW2d 393 (1997).

Under the no-fault act, in particular MCL 500.3135(1), a plaintiff may not recover noneconomic losses unless the plaintiff suffered a “serious impairment of body function” which, according to MCL 500.3135(7), is “an objectively manifested impairment of an important body function that affects the person’s general ability to lead his or her normal life.” Whether the plaintiff suffered such an injury is a question of law if the trial court finds either of the following:

- (i) There is no factual dispute concerning the nature and extent of the person’s injuries.
- (ii) There is a factual dispute concerning the nature and extent of the person’s injuries, but the dispute is not material to the determination as to whether the person has suffered a serious impairment of body function or permanent serious disfigurement. [MCL 500.3135(2)(a).]

In this case, the trial court relied on MCL 500.3135(2)(a)(ii) to support dismissal of this action. We agree with the trial court’s decision. Even if the factual dispute regarding the nature and extent of plaintiff’s injuries was resolved in plaintiff’s favor, defendants would be entitled to summary disposition. Evidence of plaintiff’s injuries consisted primarily of his subjective complaints of discomfort and the presence of muscle spasms. He was diagnosed with cervical and lumbar muscle strains and myofascitis. The facts that plaintiff was still able to go to college, travel extensively (including to Lebanon twice, New York, Paris, and California), start or participate in starting three businesses, and was involved in several clubs supports our conclusion—as a matter of law, these injuries do not constitute a “serious impairment of body function” within the contemplation of the no-fault act. See, e.g., *Clark v Auto Club Ins Ass’n*, 150 Mich App 546, 553; 389 NW2d 718 (1986). Because plaintiff has not established “an objectively manifested impairment of an important body function,” we need not address his argument that his impairment affects his general ability to lead his normal life. See MCL 500.3135(7).

Affirmed.

/s/ Richard Allen Griffin
/s/ Mark J. Cavanagh
/s/ Karen M. Fort Hood