

STATE OF MICHIGAN
COURT OF APPEALS

SHELDON STALLWORTH, II and LOIS JONES,

Plaintiffs-Appellants,

v

VICKEY JOY COLEMAN,

Defendant-Appellee.

UNPUBLISHED

March 15, 2005

No. 251254

Wayne Circuit Court

LC No. 02-219891-NI

Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

PER CURIAM.

Plaintiffs Sheldon Stallworth, II, and Lois Jones appeal as of right the trial court's order granting defendant Vickey Coleman's motion for summary disposition. We affirm. We decide this appeal without oral argument pursuant to MCR 7.214(E).

I. Basic Facts and Procedural History

The parties were involved in a motor vehicle collision. Stallworth did not seek medical attention immediately following the accident. Jones went to the emergency room complaining of neck pain that day, but was found to have a full range of motion in her neck. Stallworth and Jones treated with various physicians and participated in physical therapy following the accident, and for a time had some unspecified restrictions on their activities.

Stallworth and Jones filed suit alleging that the injuries they sustained in the accident constituted a serious impairment of body function. Coleman moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that no evidence showed that plaintiffs sustained objectively manifested injuries that affected their general abilities to lead their normal lives. The trial court agreed and granted the motion.

II. Standard Of Review

We review a trial court's decision on a motion for summary disposition de novo.¹

¹ *Auto Club Group Ins Co v Burchell*, 249 Mich App 468, 479; 642 NW2d 406 (2001).

III. Whether Plaintiffs Suffered Serious Impairments Of Body Function

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.”² For an impairment to be objectively manifested, there must be a medically identifiable injury or a condition that has a physical basis.³ 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, or 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.⁴

Determining whether a person is generally able to lead his or her normal life requires considering whether the objectively manifested impairment has, “for the most part,” affected the course of the person’s life.⁵ In order to determine whether the plaintiff’s “general ability” to lead his or her normal life has been affected by the objective impairment, the court may consider factors such as: “(a) the nature and extent of the impairment, (b) the type and length of treatment required, (c) the duration of the impairment, (d) the extent of any residual impairment, and (e) the prognosis for eventual recovery.”⁶

An objectively manifested impairment consists of a medically identifiable injury or a condition that has a physical basis.⁷ Following the accident a physician diagnosed muscle spasms in plaintiffs’ back. A muscle spasm is an objectively identifiable injury, and the ability to use the back is an important body function.⁸ For some time after the accident, plaintiffs had unspecified restrictions on their activities. However, no evidence showed that those restrictions lasted longer than a few months. Plaintiffs indicated that after the accident they did not engage in recreational activities as they had prior to the accident, and Stallworth stated that he no longer did occasional work as a painter or plasterer. No evidence showed that any physician placed restrictions on either plaintiff’s ability to work or engage in recreational activities. Pain, in and of itself, is not an objectively manifested condition and cannot be relied upon to establish the existence of a serious impairment of body function.⁹ Moreover, self-imposed restrictions are not

² MCL 500.3135(7).

³ *Jackson v Nelson*, 252 Mich App 643, 652-653; 654 NW2d 604 (2002).

⁴ MCL 500.3135(2)(a).

⁵ *Kreiner v Fischer*, 471 Mich 109, 130-31; 683 NW2d 611 (2004), quoting *Random House Webster’s College Dictionary* (1991).

⁶ *Id.* at 133, citing *DiFranco v Pickard*, 427 Mich 32, 67-70; 398 NW2d 896 (1986); *Hermann v Haney*, 98 Mich App 445; 296 NW2d 278 (1980).

⁷ *Jackson, supra*.

⁸ *Chumley v Chrysler Corp*, 156 Mich App 474, 481-482; 401 NW2d 879 (1986).

⁹ See *Garris v Vanderlaan*, 146 Mich App 619, 622; 381 NW2d 412 (1985).

sufficient to create the existence of a serious impairment of body function.¹⁰ No evidence presented in opposition to defendant's motion for summary disposition created an issue of fact as to whether plaintiffs' injuries affected their general abilities to lead their normal lives. Absent such evidence, neither plaintiff was able to make a prima facie case that he or she suffered a serious impairment of body function. We conclude that the trial court did not err in determining that the issue was a question of law under the circumstances.¹¹ Summary disposition was proper.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Kathleen Jansen

¹⁰ *Kreiner, supra* at 133 n 17.

¹¹ MCL 500.3135(2)(a).