

STATE OF MICHIGAN  
COURT OF APPEALS

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MANUEL VALLEJO,  
Plaintiff-Appellant,

UNPUBLISHED  
May 24, 2005

v

DANIEL DOWNING, JR.,  
Defendant-Appellee.

No. 260433  
Oakland Circuit Court  
LC No. 2003-054429-NI

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Before: Murphy, P.J., and White and Smolenski, JJ.

MEMORANDUM.

Plaintiff appeals as of right from the circuit court's order granting defendant's motion for summary disposition in this automobile negligence case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

We review a trial court's decision on a motion for summary disposition de novo. *Kefgen v Davidson*, 241 Mich App 611, 616; 617 NW2d 351 (2000).

A serious impairment of body function is defined as "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). Whether a person suffered a serious impairment of body function is a question of law for the court if there is no factual dispute about the nature and extent of the plaintiff's injuries, or if there is a factual dispute but it is not material to the determination whether the plaintiff suffered a serious impairment of body function. MCL 500.3135(2)(a).

If the court determines that an important body function has been impaired and that the impairment is objectively manifested, it must then determine whether the impairment affected the plaintiff's general ability to lead his normal life. *Kreiner v Fischer*, 471 Mich 109, 132; 683 NW2d 611 (2004). In making this determination, the court is to compare the plaintiff's life before and after the accident and consider "the significance of any affected aspects on the course of plaintiff's overall life." *Id.* at 132-133. Factors that may be considered include "(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." *Id.* at 133.

Plaintiff had medically identifiable injuries which purportedly affected his ability to move his neck. Even assuming that these injuries were both attributable to the motor vehicle accident and caused plaintiff's symptoms, the trial court did not err in granting defendant's motion for summary disposition because the evidence showed that any impairment did not affect plaintiff's general ability to lead his normal life. The evidence showed that prior to the accident, plaintiff suffered from constant back and shoulder pain that radiated into his neck. His neck was constantly stiff, and he complained of very limited range of motion and an occasional inability to move his neck at all. Because of this unrelenting pain, he had difficulty engaging in activities such as sleeping, driving, cooking, performing indoor and outdoor chores, lifting his arms, and attending to personal hygiene. He mostly sat around watching television. After the accident, plaintiff's life was essentially the same: he had difficulty engaging in many daily activities because of unrelenting pain and difficulty raising his arms. Any injury allegedly caused by the accident did not affect plaintiff's general ability to lead his normal life.

Affirmed.

/s/ William B. Murphy

/s/ Helene N. White

/s/ Michael R. Smolenski