STATE OF MICHIGAN

COURT OF APPEALS

VISA SIMS,

Plaintiff-Appellant,

and

LACRESHA SIMS, as next friend of VISA SIMS,

Plaintiff,

v

CITY OF SAGINAW SCHOOL DISTRICT,

Defendant-Appellee.

UNPUBLISHED
January 10, 2006

No. 264080
Saginaw Circuit Court
LC No. 04-051418-NI

Before: O'Connell, P.J., and Smolenski and Talbot, JJ.

PER CURIAM.

Plaintiff[1] appeals as of right from an order of summary disposition under MCR 2.116(C)(10), which dismissed plaintiffs' auto-negligence claim. The trial court held that, although plaintiff suffered an objectively manifested impairment of an important body function, the impairment did not affect her general ability to lead her normal life. We affirm. This appeal is being decided without oral argument under MCR 7.214(E).

Under Michigan's no-fault act, a plaintiff may only pursue traditional tort remedies under MCL 500.3135(1) if the plaintiff suffers "death, serious impairment of body function, or permanent serious disfigurement" as a result of a defendant's negligent operation of a motor vehicle. Because the trial court held that plaintiff had demonstrated an objectively manifested impairment of an important body function, which defendant does not challenge, the sole issue on appeal is whether the impairment affected plaintiff's general ability to lead her normal life. MCL 500.3135(7). In *Kreiner v Fisher*, 471 Mich 109, 131; 683 NW2d 611 (2004), our Supreme Court recently established the following general approach to this legal issue:

[1] We use the singular term plaintiff to refer to Visa Sims exclusively because this appeal applies only to her claim.

> The starting point in analyzing whether an impairment affects a person's "general," i.e., overall, ability to lead his normal life should be identifying how his life has been affected, by how much, and for how long. Specific activities should be examined with an understanding that not all activities have the same significance in a person's overall life. Also, minor changes in how a person performs a specific activity may not change the fact that the person may still "generally" be able to perform that activity.

In this case, plaintiff worked about thirty-five to forty hours a week before the accident as a home health aide. After the accident, plaintiff initially missed six weeks of work, but then returned to work and recovered enough to work about thirty-four hours a week. Although her activities were limited to light-duty work because of doctor-imposed restrictions, she added two other part-time jobs after the accident, with hours that nearly doubled what she worked before the accident. Her alleged reduction of hours at her primary job is far less drastic than the plaintiff's reduction of hours in *Kreiner*, where the Court held that the two-hour-a-day work reduction was not significant enough to meet the statutory threshold. *Id.* at 126, 136-137. Also, plaintiff's six-week loss of work does not demonstrate a sufficient interference with the general course of her life. See *id*. at 130-131, 135-136. Although plaintiff asserts months of reduced hours, we do not see anything in the record to support these allegations. On the contrary, plaintiff stated in her deposition that her hours varied and gradually increased to about what she had worked before the accident. Therefore, plaintiff has abandoned the argument by failing to cite the record to support it. *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998).

When asked to enumerate the day-to-day limitations caused by the accident, plaintiff stated that she could not lift her home health patients to bathe them and that she could not go shopping for extended periods of time. However, plaintiff failed to demonstrate how these changes appreciably affected her general ability to conduct her life, especially considering that the work limitation did not appear to affect her hours or pay, and the shopping limitation was self-imposed. *Kreiner*, *supra* at 133. Plaintiff also claimed that she could not kneel at night to pray, but she noted that she still prays in bed. Again, plaintiff fails to explain the significance of the difference in relationship to her overall life. Plaintiff also stated that she occasionally could only descend her basement steps by sitting on the stairs and sliding down each step. However, plaintiff did not indicate or even estimate how frequently her condition required her to descend her stairs in this way. The medical restriction only prevented plaintiff from going up and down stairs more than twice in an eight-hour period. Although we must consider the evidence in the light most favorable to the nonmoving party, there is simply no basis in the record to reasonably infer that this issue arose frequently enough to interfere with plaintiff's general ability to lead her normal life. Accordingly, taking together all the evidence that was properly before the trial court, it did not err in granting defendant's motion for summary disposition.

Plaintiff also argues that the trial court erred in denying her motion for reconsideration. However, plaintiff's statement of the question presented challenges only the trial court's decision to grant summary disposition, so the issue is not presented for appellate review. *Caldwell v Chapman*, 240 Mich App 124, 132; 610 NW2d 264 (2000).

Affirmed.

/s/ Peter D. O'Connell
/s/ Michael R. Smolenski
/s/ Michael J. Talbot