

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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DAVID MODRZEJEWSKI,

Plaintiff-Appellant,

v

AMY DAWN BEDDINGFIELD and  
SAMARITAN HOMES, INC.,

Defendants-Appellees.

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UNPUBLISHED  
February 22, 2007

No. 271247  
Wayne Circuit Court  
LC No. 05-516501-NI

Before: Meter, P.J., and O'Connell and Davis, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court's order granting defendants' motion for summary disposition. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On May 17, 2005, plaintiff's vehicle was struck by a vehicle driven by Beddingfield and owned by Samaritan Homes. Plaintiff was diagnosed with a head injury, a hand abrasion, a chest wall contusion, and a scalp laceration.

Dr. Steinbock, a neurologist, evaluated plaintiff. Dr. Steinbock noted that a CT scan of plaintiff's brain taken in the emergency room was unremarkable. Dr. Steinbock diagnosed a cerebral concussion and subsequent postconcussive syndrome with headaches, neck pain, weakness, perceived memory loss, and fatigue.

Plaintiff underwent an EEG and an MRI of the brain. The EEG was within normal limits. The MRI showed the existence of a small left temporal arachnoid cyst, but no mass lesions or hemorrhages. Dr. Steinbock reviewed the tests and diagnosed a closed head injury/traumatic brain injury, chronic post-traumatic headaches, and chronic neck, back, and shoulder pain.

Dr. Soo, a neurosurgeon, evaluated plaintiff. Dr. Soo diagnosed cervical degenerative disc disease, foraminal stenosis, and a left temporal arachnoid cyst.

Dr. Inwald, a neurophysiologist, evaluated plaintiff. Dr. Inwald found that plaintiff had deficits, including difficulty with attention, concentration, memory, motor function, and emotional and behavioral adaptation. Dr. Inwald concluded that plaintiff's responses during testing obviated a diagnosis of traumatic brain injury. Dr. Inwald found that plaintiff was

experiencing greater problems than before the accident, but also noted that it was possible that plaintiff was exaggerating his symptoms to some extent.

Plaintiff filed suit, alleging that the injuries he sustained in the accident resulted in a serious impairment of body function. Defendants moved for summary disposition under MCR 2.116(C)(10), arguing that no evidence showed that plaintiff suffered a serious impairment of an important body function as a result of the accident or that any injuries plaintiff sustained as a result of the accident affected his general ability to lead his normal life. The trial court granted defendants' motion.

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

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). 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 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. MCL 500.3135(2)(a).<sup>1</sup> Otherwise, the determination of whether the plaintiff suffered a serious impairment of body function is a question of fact for the jury.

Determining whether a person is generally able to lead his or her normal life requires considering whether the objectively manifested impairment has affected the course of the person's life. See *Kreiner v Fischer*, 471 Mich 109, 131; 683 NW2d 611 (2004). A court must examine how, to what extent, and for how long the plaintiff's life has been affected by the impairment. *Id.* The court must examine the plaintiff's life before and after the accident and consider the significance of the affected aspects on the course of the plaintiff's life. *Id.* at 132-133. 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 the nature and extent of the impairment, the type and length of treatment required, the duration of the impairment, the extent of any residual impairment, and the prognosis for eventual recovery. *Id.* at 133.

Plaintiff argues that the trial court erred by granting defendants' motion for summary disposition. Plaintiff asserts that questions of fact existed regarding the nature and extent of the

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<sup>1</sup> The determination of whether a closed-head injury constitutes a serious impairment of body function is a question of fact for the jury if a physician who regularly diagnoses or treats closed-head injuries testifies that there might be a serious neurological injury. A simple diagnosis of a closed-head injury is insufficient to create an issue of fact. MCL 500.3135(2)(a)(ii); *Churchman v Rickerson*, 240 Mich App 223, 229; 611 NW2d 333 (2000).

injuries he sustained in the accident and regarding whether those injuries affected his general ability to lead his normal life. We disagree.

Plaintiff failed to present evidence that he suffered an objectively manifested impairment of an important body function as a result of the accident. No objective evidence, such as x-rays or an MRI, demonstrated that plaintiff sustained an injury to his neck, back, or knee in the accident. Moreover, a physician's records showed that plaintiff made frequent complaints of neck and back pain before the accident. Plaintiff claims that he suffered a closed-head injury as a result of the accident; however, he did not provide testimony, in the form of an affidavit or otherwise, from a physician who regularly diagnoses closed-head injuries to the effect that plaintiff might have sustained a serious neurological injury. Plaintiff's evidence was insufficient to create a question of fact for the jury. See, e.g., *Churchman v Rickerson*, 240 Mich App 223, 229; 611 NW2d 333 (2000).

Furthermore, no evidence created a question of fact regarding whether any injury plaintiff sustained in the accident affected his general ability to lead his normal life. Plaintiff was disabled from his employment before the accident. He offered no specifics regarding how his daily life changed after the accident occurred. No physician placed any restrictions on plaintiff's activities following the accident. Plaintiff asserted that pain he experienced prevented him from engaging in various activities; however, self-imposed restrictions, as opposed to physician-imposed restrictions, based on real or perceived pain, do not establish the existence of a residual impairment. *Kreiner, supra* at 133 n 17; *McDaniels v Hemker*, 268 Mich App 269, 282; 707 NW2d 211 (2005).

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 under the circumstances, MCL 500.3135(2)(a), and it did not err by granting summary disposition to defendants.

Affirmed.

/s/ Patrick M. Meter  
/s/ Peter D. O'Connell  
/s/ Alton T. Davis