

STATE OF MICHIGAN
COURT OF APPEALS

CHAUNCEY ROBERT REYNOLDS,

Plaintiff-Appellant,

v

ANTHONY LEE McADAM and HAROLD
ZIEGLER LINCOLN-MERCURY, INC.,

Defendants-Appellees.

UNPUBLISHED

September 10, 1999

No. 210104

Allegan Circuit Court

LC No. 96-019305 NO

Before: Markman, P.J., and Saad and P.D. Houk,* JJ.

PER CURIAM.

Plaintiff appeals 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 December 26, 1995 the vehicle driven by plaintiff was struck by a vehicle driven by Anthony McAdam and owned by Harold Ziegler Lincoln-Mercury. Plaintiff was taken to the hospital and diagnosed with a fractured clavicle and three fractured ribs. Two weeks later plaintiff sought follow-up treatment with his personal physician, Dr. Lemke. Dr. Lemke recommended that plaintiff "take it easy" for two weeks. On January 25, 1996 Dr. Lemke released plaintiff to return to work without restrictions.

Plaintiff filed suit alleging that his injuries constituted a serious impairment of body function. MCL 500.3135(1); MSA 24.13135(1). Defendants moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that a genuine issue of fact did not exist because reasonable minds could not differ on the issue of whether plaintiff's injuries sustained in the accident constituted a serious impairment of body function under the standard established in *DiFranco v Pickard*, 427 Mich 32; 398 NW2d 896 (1986). Plaintiff relied on letters from Dr. Guerrero, who diagnosed cranial nerve disorder, cervical radiculopathy, and thoracic outlet syndrome, and opined that the injuries were caused by the accident.

* Circuit judge, sitting on the Court of Appeals by assignment.

The trial court granted defendants' motion, finding that plaintiff's injuries did not meet the serious impairment of body function threshold.

We review a trial court's decision on a motion for summary disposition de novo. *Harrison v Olde Financial Corp*, 225 Mich App 601, 605; 572 NW2d 679 (1997).

In *DiFranco, supra*, our Supreme Court held that a serious impairment of body function need not be an impairment of the entire body or of an important body function. The focus is on how the injuries affected a particular body function. In determining whether an impairment was serious, factors to be considered include the particular function impaired, the length of the impairment, the treatment required to correct the impairment, the length of time the impairment existed, and any other relevant factors. An impairment need not be permanent to be deemed serious. If reasonable minds could differ on the issue of whether the impairment was serious, the issue must be submitted to the jury. *DiFranco, supra*, at 67-69.

Plaintiff argues that the trial court erred by granting defendants' motion for summary disposition. We disagree and affirm. Plaintiff's injuries kept him off work for only one month, did not require complicated treatment, and were considered by his personal physician to have resolved within four weeks of the accident. While Dr. Guerrero diagnosed injuries which he attributed to the accident, he imposed no restrictions on plaintiff's activities and prescribed no medication. The fact that plaintiff may have had some lingering minor pain or disparity of muscle strength did not create a jury question as to whether his impairment was serious. This case is factually similar to *Kallio v Fisher*, 180 Mich App 516; 448 NW2d 46 (1989), in which the plaintiff's whiplash injury resolved two months after the accident following a course of basic treatment. The plaintiff's family physician considered him healed, notwithstanding the fact that he had some lingering minor pain. We affirmed the circuit court's grant of summary disposition in favor of the defendants, finding that reasonable minds could not differ in concluding that the plaintiff's injury did not constitute a serious impairment of body function. *Kallio, supra*, at 518-519. In the instant case, plaintiff's injuries resolved within one month, and did not limit his activities after that period. The trial court did not err in finding that reasonable minds could not differ on the issue of whether plaintiff's injuries constituted a serious impairment of body function under the *DiFranco, supra*, test.

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk