

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

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NICHOLAS TODOROW,

Plaintiff-Appellant,

v

LOIS THOMPSON and CHARLES THOMPSON,

Defendants-Appellees.

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UNPUBLISHED

March 30, 2004

No. 244456

Genesee Circuit Court

LC No. 01-071734-NI

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Plaintiff appeals as of right from an order granting defendants summary disposition pursuant to MCR 2.11(C)(10) based on the determination that plaintiff had failed to establish an objectively manifested serious impairment of body function. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was involved in an automobile accident on August 23, 1999. He had previously been treated for neck pain, but the accident resulted in his having an acute cervical strain. At subsequent doctor appointments, his physician noted spasms of the neck and trapezius muscle. Moreover, an MRI showed a mild middle/lower cervical spondylosis. Plaintiff consistently reported pain and exhibited decreased range of motion. Sometimes he reported interrupted sleep and headaches. Also, he received physical therapy and chiropractic treatment.

After retirement but before the accident, plaintiff fished with his sons, played catch and basketball with them, worked on his cars, rode his bicycle, and went to antique shops. After the accident, he could not sit in one position for more than thirty minutes. He, therefore, fished less frequently, seldom worked on his cars, and could not drive long distances. Moreover, he only rode his bicycle once during the summer of 2002. He said that he was pretty much able to continue doing what he had done around the house. He could not do “anything continuous” like riding the mower to mow the grass, but he indicated that he could not do this before the accident either. He would wake up at least five or six times a night, and could not play basketball or catch with his children.

The trial court concluded that the evidence showed, in general, that plaintiff still had the ability to lead a normal life. Further, the court concluded that any injury was not objectively manifested. Therefore, the trial court granted summary disposition.

Plaintiff first argues that the trial court erred in finding no objective manifestation. This Court has concluded that a spasm is an objective manifestation. *Harris v Lemicex*, 152 Mich App 149; 393 NW2d 559 (1986); *Franz v Woods*, 145 Mich App 169, 176; 377 NW2d 373 (1985), overruled on other grounds in *DiFranco v Pickard*, 427 Mich 32; 398 NW2d 896 (1986). To be objectively manifested, there must be a medically identifiable injury or condition that has a physical basis. *Jackson v Nelson*, 252 Mich App 643, 653; 654 NW2d 604 (2002). In *Franz, supra*, the expert indicated that a doctor can physically detect a spasm. Thus, at a minimum, a genuine issue of material fact existed regarding whether the injury was objectively manifested.

However, we affirm the finding that in general, plaintiff still had the ability to lead a normal life. Although his injuries had an effect on his normal life and aspects of his day-to-day activities, the evidence did not demonstrate that the impairments had an effect on plaintiff's general ability to lead his normal life. MCL 500.3135(2)(a); *Kreiner v Fischer (On Remand)*, 256 Mich App 680, 682-683; 671 NW2d 95 (2003). Thus, summary disposition was proper.

Affirmed.

/s/ Brian K. Zahra  
/s/ Henry William Saad  
/s/ Bill Schuette