

STATE OF MICHIGAN
COURT OF APPEALS

PEARL OLLIE,

Plaintiff-Appellant,

v

RAYMOND THEODORE CHAMPE,

Defendant-Appellee.

UNPUBLISHED

October 12, 2004

No. 248183

Oakland Circuit Court

LC No. 2002-040800-NI

Before: Griffin, P.J., and Saad and O’Connell, JJ.

MEMORANDUM.

Plaintiff appeals as of right from an order granting summary disposition in favor of defendant in this automobile negligence case. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff argues that the trial court erred in concluding that there was no evidence she suffered a “serious impairment of body function” under MCL 500.3135(7). Specifically, plaintiff argues that her deposition testimony provided evidence to support a finding that she suffered injuries that affected her general ability to lead her normal life. We disagree. We review de novo a trial court’s decision to grant summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999).

After plaintiff filed her brief on appeal, our Supreme Court issued an opinion in *Kreiner v Fischer*, ___ Mich ___, 683 NW2d 611 (2004), that outlined the proper application of the term “serious impairment of body function.” The Court indicated that a plaintiff’s self-imposed restrictions, as opposed to restrictions imposed by a physician, that are based solely on pain do not establish a “residual impairment” sufficient to constitute an impairment to the plaintiff’s ability to lead his ordinary life. *Id.* at 626 n 17. Arguing that her injuries from the automobile accident affected her general ability to lead her normal life, plaintiff refers only to her own deposition testimony where she stated that she “cannot paint, sculpt, conduct a choir or ride a bicycle as she could prior to” the date of the accident. However, the deposition testimony indicates that plaintiff limited her activities based on pain, and there is no indication that she did so at the direction of a physician or other health professional. Thus, plaintiff has not established that these restrictions rise to the level of affecting her general ability to lead her life, and the trial court did not err by granting defendant’s motion for summary disposition.

Affirmed.

/s/ Richard Allen Griffin

/s/ Henry William Saad

/s/ Peter D. O'Connell