

STATE OF MICHIGAN
COURT OF APPEALS

CYNTHIA JONES,

Plaintiff-Appellant,

v

SHARON JONES and REOMETRIC ROMAN
MCGLOTHIN,

Defendants-Appellees.

UNPUBLISHED

November 15, 2007

No. 274627

Wayne Circuit Court

LC No. 05-524410-NO

Before: Zahra, P.J., and White and O’Connell, JJ.

PER CURIAM.

Plaintiff appeals as of right from the trial court’s order granting summary disposition in favor of defendants in this no-fault insurance action. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

This case arises out of a motor vehicle accident that occurred on July 24, 2005. Plaintiff, who suffered injuries when she was hit while crossing the street, filed suit to recover noneconomic damages. Both parties moved for summary disposition pursuant to MCR 2.116(C)(10). Defendants asserted that plaintiff’s injury did not satisfy the serious impairment threshold necessary for recovery. The trial court agreed and granted defendants’ motion.

We review de novo a trial court’s decision to grant summary disposition. *Maiden v Rozwood*, 461 Mich 109, 118; 597 NW2d 817 (1999). Under Michigan’s No-Fault Act, MCL 500.3101 *et seq.*, a plaintiff may recover noneconomic damages from a negligent driver for injuries sustained in an automobile accident only if the plaintiff has suffered “death, serious impairment of body function, or permanent serious disfigurement.” MCL 500.3135(1). To prove a serious impairment, a plaintiff must have sustained “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). The trial court must first decide if a factual dispute exists regarding whether a plaintiff has an objectively manifested impairment of an important body function. MCL 500.3135(2)(a); *Kreiner v Fischer*, 471 Mich 109, 132; 683 NW2d 611 (2004). If the court determines that an injury constitutes an objective manifestation of a serious impairment, it must then decide whether the impairment affects the plaintiff’s general ability to lead a normal life. *Kreiner, supra*.

In *Kreiner, supra* at 133, our Supreme Court provided a nonexclusive list of factors that a court can use to make this determination, including “(a) the nature and extent of the impairment, (b) the type and length of treatment required, (c) the duration of the impairment, (d) the extent of any residual impairment, and (e) the prognosis for eventual recovery.” In assessing the extent of the injury, a court should objectively compare the plaintiff’s lifestyle and activities before the injury to his lifestyle and activities after the injury. *Id.* at 132. In addition, “the effect of the impairment on the course of a plaintiff’s entire normal life must be considered.” *Id.* at 131.

In this case, the trial court correctly held that plaintiff’s injury indisputably did not affect her general ability to lead her normal life. Plaintiff admitted she had been unemployed for approximately three years before the accident, and she failed to demonstrate any employment prospects. After the accident, plaintiff was taken to a hospital where a rod and screws were inserted into her left leg to repair a bone fracture. Plaintiff was discharged from the hospital within four days of surgery, and she testified that she had in-home health care for several months after the accident. She testified that she required assistance with her daily activities during this period, and used a wheelchair or walker whenever she left home. However, plaintiff’s last medical evaluation does not restrict her from obtaining employment, and instead confirms that the fracture has “healed nicely.”

Plaintiff claims she has a permanent limp and requires a cane for support. She also claims that the pain she experiences has prevented her from standing for long periods and walking long distances. However, on-going discomfort and minor problems with standing and walking are generally not serious enough to overcome the threshold. See *Kreiner, supra* at 137; *Kern v Blethen-Coluni*, 240 Mich App 333, 343-344; 612 NW2d 838 (2000). Moreover, plaintiff admitted that her physician did not diagnose her with a permanent limp, and there is no evidence that her physician prescribed a cane. Plaintiff’s latest medical evaluation places no restrictions on her activities. Self-imposed restrictions, as opposed to physician-imposed restrictions, that derive from real or perceived pain do not establish the existence of a residual impairment. *Kreiner, supra* at 133 n 17.

Regarding plaintiff’s exercise routine, plaintiff testified that she still walks, though not for as long, and will now occasionally ride her bicycle for exercise. Apart from plaintiff’s difficulty with or inability to do laundry, there is no evidence that she is unable to perform the ordinary household duties she performed before the accident. When compared with the conditions of her life before the injury and the limited nature and extent of her injury, plaintiff’s life after the injury is not so different that her general ability to lead her normal life has been affected. *Kreiner, supra* at 130-131. Because the course of plaintiff’s normal life has not been affected, she fails to satisfy the no-fault threshold necessary for recovery. *Id.* Accordingly, the trial court properly granted summary disposition in favor of defendants.

Affirmed.

/s/ Brian K. Zahra
/s/ Helene N. White
/s/ Peter D. O’Connell