

STATE OF MICHIGAN
COURT OF APPEALS

HARLESS HAIRSTON,

Plaintiff-Appellant,

v

METROPOLITAN LIFE INSURANCE
COMPANY and MET LIFE AUTO & HOME,

Defendants-Appellees.

UNPUBLISHED

August 6, 2009

No. 284011

Wayne Circuit Court

LC No. 07-713187-NF

Before: Wilder, P.J., and Meter and Servitto, JJ.

PER CURIAM.

Plaintiff appeals as of right from the circuit court's order granting defendants' motion for summary disposition. We reverse and remand for further proceedings consistent with this opinion. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Plaintiff was injured in a single-vehicle accident. Plaintiff's friend was driving; the vehicle in which they were riding belonged to plaintiff's mother – a resident of Illinois – and was insured by her through Allstate Insurance Company. Plaintiff did not have a valid driver's license and had no insurance of his own. Plaintiff lived with his uncle, who owned a vehicle insured by defendants. The complaint in this case was filed only against defendants for no-fault benefits; a companion suit was filed against Allstate for benefits under the mother's uninsured motorist policy, but that was dismissed when the circuit court found plaintiff to be an "uninsured owner," making him ineligible for benefits under the policy. The circuit court granted defendants' motion for summary disposition in this case for the same reason Allstate was not required to pay benefits: plaintiff was an uninsured owner because he had use of the vehicle for at least 30 days but did not carry Michigan no-fault insurance on the vehicle.

We review de novo a trial court's decision to grant or deny a motion for summary disposition. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998).

Plaintiff argues that the facts here are identical to those of *Iqbal v Bristol West Ins Group*, 278 Mich App 31, 39-40; 748 NW2d 574 (2008), in which this Court held that the injured person need not have his own policy in order to receive benefits under a policy held by a relative with whom he lives. In *Iqbal*, this Court held that the plaintiff fell under his sister's "umbrella" policy because he lived in her household. *Id.* at 32. The vehicle he was driving at the time of the

accident was properly insured, and the owner of the policy was irrelevant: “MCL 500.3113(b) does not preclude an award of PIP benefits to an ‘owner’ of a vehicle if the vehicle is covered by a no-fault policy” *Id.* at 45.

Similarly, plaintiff in the present case falls under the umbrella of his uncle’s policy because of MCL 500.3114:

(1) Except as provided in subsections (2), (3), and (5), a personal protection insurance policy described in section 3101(1) applies to accidental bodily injury to the person named in the policy, the person’s spouse, and a relative of either domiciled in the same household, if the injury arises from a motor vehicle accident. . . .

Under *Iqbal*, plaintiff was not required to carry his own policy on the uncle’s vehicle. Moreover, the circuit court here erred in relying on MCL 500.3113(b), which provides:

A person is not entitled to be paid personal protection insurance benefits for accidental bodily injury if at the time of the accident any of the following circumstances existed:

* * *

(b) The person was the owner or registrant of a motor vehicle or motorcycle involved in the accident with respect to which the security required by section 3101 or 3103 was not in effect.

There is no dispute that plaintiff’s mother’s vehicle was not insured by a Michigan no-fault policy. However, MCL 257.243(1) provides:

A nonresident owner, except as otherwise provided in this section, owning any foreign vehicle of a type otherwise subject to registration under this act may operate or permit the operation of the vehicle within this state without registering the vehicle in, or paying any fees to, this state if the vehicle at all times when operated in this state is duly registered in, and displays upon it a valid registration certificate and registration plate or plates issued for the vehicle in the place of residence of the owner.

Under this statute, plaintiff’s mother is a nonresident owner who maintained Illinois registration on her vehicle. Thus, the vehicle plaintiff was riding in was not required to be registered in this state. Accordingly, MCL 500.3101 did not require it to be insured by a Michigan no-fault policy.

Even though the circuit court found that plaintiff was not eligible for uninsured motorist benefits, we conclude that he is *not* precluded from receiving benefits under his uncle’s umbrella policy.

Finally, we reject defendants’ argument relating to a possible alternative basis for affirmance. See, generally, *Budget Rent-a-Car System, Inc v Detroit*, 482 Mich 1098; 757

NW2d 865 (2008), and *Brown v Michigan Millers Mut Ins Co*, 467 Mich 886; 651 NW2d 748 (2002).

We reverse and remand for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Kurtis T. Wilder

/s/ Patrick M. Meter

/s/ Deborah A. Servitto