

STATE OF MICHIGAN
COURT OF APPEALS

KRISTI SCHMIDT,

Plaintiff-Appellant,

v

DAVID ALLAN GWIZDALA and KENNETH
JOSEPH GWIZDALA,

Defendants-Appellees.

UNPUBLISHED

April 13, 2010

No. 289981

Bay Circuit Court

LC No. 07-003121-NI

Before: DAVIS, P.J., and DONOFRIO and STEPHENS, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting defendants' motion for summary disposition pursuant to MCR 2.116(C)(10) in this automobile negligence action. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This action arises from a 2004 automobile accident in which plaintiff's vehicle was involved in a collision with a vehicle driven by defendant David Gwizdala, and owned by defendant Kenneth Gwizdala. Plaintiff, who suffered from neck and back pain after an earlier automobile accident in 2002, claimed that her injuries were aggravated by the 2004 accident. Defendants moved for summary disposition, asserting that plaintiff had not suffered a serious impairment of body function. The trial court granted defendants' motion.

We review the trial court's decision on a motion for summary disposition de novo. *Gillie v Genesee Co Treasurer*, 277 Mich App 333, 344; 745 NW2d 137 (2007). When reviewing a motion under MCR 2.116(C)(10), this Court considers the pleadings, admissions, affidavits, and other relevant record evidence in the light most favorable to the nonmoving party to determine whether any genuine issue of material fact exists warranting a trial. *Walsh v Taylor*, 263 Mich App 618, 621; 689 NW2d 506 (2004). "A genuine issue of material fact exists when the record, giving the benefit of reasonable doubt to the opposing party, leaves open an issue upon which reasonable minds might differ." *West v Gen Motors Corp*, 469 Mich 177, 183; 665 NW2d 468 (2003).

A person is subject to tort liability for automobile negligence if the injured person "suffered death, serious impairment of body function, or permanent serious disfigurement." MCL 500.3135(1). A serious impairment of body function is defined as "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).

In *Kreiner v Fischer*, 471 Mich 109, 131; 683 NW2d 611 (2004), the Court established a "multi-step process . . . to provide the lower courts with a basic framework for separating out those plaintiffs who meet the statutory threshold from those who do not." The first step requires the court to determine if there is a factual dispute regarding the nature and extent of the plaintiff's injuries. *Id.* at 131-132. If there is no factual dispute regarding the nature and extent of the plaintiff's injuries, the court must then determine if an "important body function" has been impaired. That means that the affected body function must be important as opposed to unimportant, and that the body function is not merely injured but is impaired. *Id.* at 132. If a court finds that an important body function has in fact been impaired, it must then determine if the impairment is objectively manifested. *Id.* An objectively manifested injury is a medically identifiable injury or condition that has a physical basis. *Jackson v Nelson*, 252 Mich App 643, 653; 654 NW2d 604 (2002). If an important body function has been impaired and the impairment is objectively manifested, the next question is whether the impairment affected the plaintiff's general ability to lead her normal life. *Kreiner*, 471 Mich at 132. In answering this last question, the court is to compare the plaintiff's life before and after the accident and consider "the significance of any affected aspects on the course of plaintiff's overall life." *Id.* at 132-133.

Plaintiff argues on appeal that the trial court erred in finding that her injury did not affect her general ability to lead her normal life when, due to restrictions imposed by her doctor, she gave up a planned career in early childhood development. Although the trial court ruled that plaintiff's injury had not affected her general ability to lead her normal life, it also ruled that plaintiff had not suffered an objectively manifested impairment, as opposed to an injury, of an important body function. Plaintiff does not address this aspect of the trial court's decision. Because an appellant is obligated to address the basis of the trial court's ruling to obtain relief, *Derderian v Genesis Health Care Sys*, 263 Mich App 364, 381; 689 NW2d 145 (2004), and plaintiff has not addressed this aspect of the trial court's ruling, an issue that must necessarily be reached to reverse the trial court, plaintiff has not established a right to relief. *City of Riverview v Sibley Limestone*, 270 Mich App 627, 638; 716 NW2d 615 (2006).

Affirmed.

/s/ Alton T. Davis
/s/ Pat M. Donofrio
/s/ Cynthia Diane Stephens