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STATE OF MICHIGAN

COURT OF APPEALS

CEARA MARIE AWWAD,

Plaintiff-Appellant,

v

KEVIN MICHAEL BRILLEY,

Defendant-Appellee.

UNPUBLISHED
October 12, 2026
10:45 AM

No. 374886
Charlevoix Circuit Court
LC No. 24-040228-NI

Before: YOUNG, P.J., and REDFORD and FEENEY, JJ.

PER CURIAM.

In this automobile negligence action, plaintiff appeals as of right the trial court's order granting defendant summary disposition under MCR 2.116(C)(10). We affirm.

I. BACKGROUND

On January 9, 2021, Plaintiff was driving on Clarion Road in Charlevoix County when she came to the intersection of Clarion Road and US 131. At the intersection, all traffic on Clarion Road is required to stop at the posted stop sign and yield to traffic on US 131. After stopping at the stop sign, plaintiff attempted to turn left onto US 131 South. Plaintiff pulled into the intersection of US 131 in front of oncoming traffic and collided with defendant who was traveling in the left northbound lane on US 131. Plaintiff was injured by the collision.

Plaintiff filed a complaint for damages, alleging that defendant's negligence was the proximate cause of her injuries. Defendant moved for summary disposition under MCR 2.116(C)(10), arguing that defendant owed no duty to plaintiff to exercise reasonable care and caution to avoid an unknown hazard. Defendant also asserted that no reasonable jury would conclude that defendant was fifty percent or more at fault, as required for recovery under Michigan's comparative-negligence standard. Plaintiff argued that she had presented sufficient evidence that defendant's negligence in using the left passing lane, in violation of MCL 257.634, was the cause of the accident. The trial court ultimately granted defendant's motion for summary disposition, finding that no facts in the record showed that defendant breached his duty of reasonable care, nor that defendant was the proximate cause of the accident. We affirm.

II. ANALYSIS

Plaintiff argues that the trial court erred by granting defendant summary disposition because there was a genuine issue of material fact concerning whether defendant was at fault because he was driving in the left-hand lane.

This Court reviews de novo a trial court's decision on a motion for summary disposition. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). A motion for summary disposition under MCR 2.116(C)(10) "tests the factual sufficiency of a claim and must be supported by affidavits, depositions, admissions, and other documentary evidence." *Finazzo v Fire Equip Co*, 323 Mich App 620, 625; 918 NW2d 200 (2018). A court must view the evidence submitted by the parties "in the light most favorable to the party opposing the motion. A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact. A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ." *El-Khalil*, 504 Mich at 160 (quotation marks and citations omitted). "To establish a prima facie case of negligence, plaintiff must prove four elements: (1) a duty owed by the defendant to the plaintiff, (2) a breach of that duty, (3) causation, and (4) damages." *Finazzo*, 323 Mich App at 635. In Michigan, evidence of violation of a statute creates a rebuttable presumption of negligence. *Johnson v Bobbie's Party Store*, 189 Mich App 652, 661; 473 NW2d 796 (1991).

Michigan is a comparative-negligence state. "Under our current comparative-negligence scheme, a plaintiff whose negligence contributed to their injury may still recover against a negligent defendant. The plaintiff's damages award is simply reduced to reflect the extent of the plaintiff's own fault." *Marion v Grand Trunk Western Railroad Company*, 513 Mich 220, 234; 15 NW3d 180 (2024). This means that "damages must not be assessed in favor of a party who is more than 50% at fault." MCL 500.3135(2)(b). "The standards for determining the comparative negligence of a plaintiff are indistinguishable from the standards for determining the negligence of a defendant." *Rodriguez v Solar of Mich, Inc*, 191 Mich App 483, 488; 478 NW2d 914 (1991).

Plaintiff argues that the trial court erred because MCL 257.634(1) requires that drivers operate their vehicle in the right-hand lane unless they are passing another vehicle. At the scene of the accident, defendant allegedly told police[1] he was not passing another vehicle. Plaintiff argues that, as a result, defendant was not entitled to drive in the left-hand lane.

Plaintiff is correct on two important general rules: (1) defendant has a duty to drive his car on the right half of the highway and (2) "the generally accepted view is that violation of a statutory duty constitutes negligence per se." *Holmes v Merson*, 285 Mich 136, 139; 280 NW 139 (1938). But plaintiff ignores that MCL 257.634(2) provides a relevant exception:

> (2) Upon a roadway having 2 or more lanes for travel in 1 direction, the driver of a vehicle shall drive the vehicle in the extreme right-hand lane available for travel except as otherwise provided in this section. However, the driver of a

[1] Both parties rely on this quote in different pleadings in this Court but do not provide the supporting bodycam footage.

> vehicle may drive the vehicle in any lane lawfully available to traffic moving in the same direction of travel when the lanes are occupied by a streetcar or vehicles moving in substantially continuous lanes of traffic and in any left-hand lane lawfully available to traffic moving in the same direction of travel for a reasonable distance before making a left turn or to avoid blocking, delaying, or otherwise interfering with the movement of a streetcar on a streetcar track.

From the record evidence, it appears defendant was entitled to this exception to a violation of MCL 257.634(1). It is undisputed that US 131 has two or more lanes for travel northbound, and it is undisputed that there was another vehicle in the right-hand lane while defendant was in the left-hand lane. The police report, a third-party witness, and plaintiff herself all corroborate that there was a vehicle in the right-hand lane. Thus, from these accounts, defendant was in the left lane in a situation where traffic was "moving in the same direction of travel" and the other lane was "occupied by. . . vehicles moving in substantially continuous lane of traffic." MCL 257.634(2); *See US v Warren*, 39 F Supp 3d 930, 934-935 (ED Mi, 2014) (observing that a police officer had observed a violation of MCL 257.634(1) that amounted to probable cause for a traffic stop where defendant drove in the left lane but "both lanes of the highway were *not* occupied by vehicles moving in substantially continuous lanes of traffic.")

Plaintiff argues that once she stopped at the stop sign and looked both ways, she had fulfilled her statutory duty.[2] Without more, this case appears to be on all fours with *Churukian v La Gest*, 357 Mich 173, 180; 97 NW 2d 832 (1959) wherein

> [t]he defendant. . . was the favored driver. The undisputed facts make it obvious that the plaintiff, in this case the subordinate driver, failed to yield the right of way. If we seek for excuse for her failure in this record, we find none. She could not depend on the defendant's driver stopping. He had no duty to do so. She had no problem as to visibility. See *Henry v Sanderson*, 260 Mich 563, 245 NW 517 (1932). There was no change of course or unexpected action by defendant's driver which intervened. See *Vukich v City of Detroit*, 325 Mich 644, 39 NW2d 212 (1949). There was no illegal speed on the part of the other automobile. See *Boyson v Hurst*, 347 Mich 302, 79 NW2d 464 (1956).

[2] Plaintiff was required to follow MCL 257.650(1) (emphasis added), which provides in pertinent part:

> The driver of a vehicle within an intersection intending to turn to the left **shall yield the right of way to a vehicle approaching from the opposite direction** which is within the intersection or so close to the intersection as to constitute an immediate hazard.

Here, even though plaintiff believed she had enough room to complete the turn, she made an incorrect judgment call and did not have enough room to complete her turn like the plaintiff in *Churukian*.

Plaintiff also claims that contributory negligence is a question for the jury, and generally it is. *Krzeminski v Chuslo*, 4 Mich App 310, 313; 144 NW2d 817 (1966) ("Courts are generally reluctant to grant directed verdicts as to liability, and normally negligence is a question of fact for the jury."). But our Supreme Court has reiterated that the liability of a motorist who fails to stop at a through-street may be declared as a matter of law. *Id*. Here, defendant cannot be the proximate cause of an accident occasioned by a subordinate driver's entry onto the highway where the driver with the right of way could not have avoided the accident. *DePriest v Kooiman*, 379 Mich 44, 49-50; 149 NW2d 449 (1967).

Viewing the facts in the light most favorable to plaintiff as the nonmoving party, plaintiff breached her duty to yield the right of way to oncoming traffic and thus breached her statutory duty under MCL 257.650. See *Churukian*, 357 Mich at 179-180. The undisputed evidence showed that plaintiff attempted to cross three lanes without heeding to oncoming traffic. Plaintiff had the obligation to ensure that there was no oncoming traffic in the right of way before proceeding. MCL 257.650. Regardless of defendant's lane of travel, plaintiff was still obligated by MCL 257.650 and MCL 257.649(8) to yield to both lanes of oncoming traffic. The trial court properly granted defendant's motion for summary disposition because plaintiff did not produce sufficient evidence to create a genuine issue of material fact as to whether defendant's breach of any duty to plaintiff was a proximate cause of the collision.

Affirmed.

/s/ Adrienne N. Young
/s/ James Robert Redford
/s/ Kathleen A. Feeney