

STATE OF MICHIGAN

COURT OF APPEALS

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GEORGIA LYNN STARKS,

Plaintiff-Appellant,

v

ALICE MARIE STOCKDALE,

Defendant-Appellee.

UNPUBLISHED

October 1, 1999

No. 212901

Van Buren Circuit Court

LC No. 97 4340 NI B

Before: McDonald, P.J., and Kelly and Cavanagh, JJ.

PER CURIAM.

Plaintiff sued defendant, alleging that she suffered serious impairment of body function as a result of an automobile accident. MCL 500.3135(1); MSA 24.13135(1). Plaintiff appeals as of right from the trial court's order granting defendant's motion for summary disposition pursuant to MCR 2.116(C)(10). We affirm.

The sole issue in this case is whether the trial court erred when it concluded that plaintiff failed to present evidence sufficient to demonstrate the existence of a factual dispute material to the determination as to whether she suffered a serious impairment of body function under MCL 500.3135(2)(a)(ii); MSA 24.13135(2)(a)(ii). Appellate review of a motion for summary disposition is de novo. *Spiek v Dep't of Transportation*, 456 Mich 331, 337; 572 NW2d 201 (1998). In reviewing a motion for summary disposition under MCR 2.116(C)(10), the court considers the affidavits, pleadings, depositions, admissions, and other documentary evidence submitted or filed in the action to determine whether a genuine issue of any material fact exists to warrant a trial. *Id.*

We find plaintiff's position that the trial court erred when it granted defendant's motion for summary disposition of her negligence claim to be wholly without merit. To recover damages for personal injuries received during an accident, the injured party must demonstrate that those injuries amounted to a serious impairment of body function. MCL 500.3135(1); MSA 24.13135(1). Whether an injured party suffered a serious impairment of body function is a question of law for the trial court if it finds either: (1) that there exists no factual dispute concerning the nature and extent of the injuries or (2) that there exists a factual dispute concerning the nature and extent of the injuries, *but that the dispute is not material to the determination as to whether the person has suffered serious impairment of body function*. MCL 500.3135(2)(a)(i)-(2)(a)(ii); MSA 24.13135(2)(a)(i)-(2)(a)(ii). For purposes of

making this determination, a “‘serious impairment of body function’ means 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); MSA 24.13135(7).

Plaintiff alleged in her complaint that, as a result of the car accident with defendant, she suffered “serious impairment of bodily function,” “permanent disability of her body,” and “extreme physical and mental injuries.” The doctor who examined plaintiff only one day after the accident, however, found that she exhibited “[m]ild posterior cervical cord tenderness,” “mild tenderness just to the right of the thoracic spine between the scapula and thoracic spine,” and a “slight tingly feeling to the right thumb and index finger.” Nothing in plaintiff’s medical records supports a conclusion that the resultant diagnoses of “acute cervical strain” and “paresthesias of the right thumb and index finger” constituted impairment, let alone serious impairment that affected plaintiff’s general ability to lead her normal life.

Plaintiff maintains that before the accident, she never experienced any problems with her back or right arm. Plaintiff further maintains that after the accident, she suffered from back and arm pain to the extent that, eventually, her right arm went numb. Plaintiff’s medical records reveal, however, that she first complained of “*bilateral* upper extremity pain” on November 15, 1994, on which date her family doctor diagnosed her as suffering from *bilateral* carpal tunnel syndrome. Plaintiff’s records also reveal that she first complained of “pain in back between shoulders” and of numbness in her hands on November 25, 1995, after she “missed a step on stairs.” Indeed, the only record evidence we found that plaintiff’s post-traumatic complaints differed, in any way, from her pre-traumatic complaints is a letter her chiropractor wrote on December 5, 1995, in which he stated, “[plaintiff’s] post-accident symptoms differed from her prior treatments [with me] in that she complained of pain in her mid to lower cervical region extending into her right shoulder and upper arms.” Plaintiff confirmed at her deposition that by October 1996, “the pain had went away on [her] right side.” Even construed in a light most favorable to plaintiff, this evidence would not support a conclusion that plaintiff suffered serious impairment of body function.

Plaintiff next maintains that the trial court “completely ignored [her] medical provider’s objective findings” and that plaintiff’s x-rays, EMGs, and physical examinations all support her claim that she suffered serious impairment of body function. First, plaintiff’s post-accident x-rays showed “minor marginal spurring and ebuneration with mild disk space narrowing mostly C5 – C6 and C6 – C7 levels,” which is precisely what plaintiff’s pre-accident x-rays showed. Second, plaintiff’s post-accident EMG unearthed no pathologies “of [plaintiff’s] right upper extremities including the right cervical paraspinous muscles.” Third, plaintiff’s post-accident physical examination revealed “some slight limitation of cervical movement [and] tightness in the cervical musculature,” which, again, is precisely what plaintiff’s pre-accident physical examination showed. Although plaintiff insists that “aggravation of a preexisting condition can be a serious impairment of body function,” the record contains no evidence from which it is possible to conclude that such an aggravation occurred. Accordingly, we conclude that the trial court did not err when it granted defendant’s motion for summary disposition of plaintiff’s negligence claim.<sup>1</sup>

Affirmed.

/s/ Gary R. McDonald  
/s/ Michael J. Kelly  
/s/ Mark J. Cavanagh

<sup>1</sup> Plaintiff maintains that the “new No-Fault Statutory scheme violates the Michigan Court Rules, Article IV, Section 5 of the Michigan Constitution, MCR 1.104, . . . [and] Article I, Section 14 of the Michigan Constitution.” However, plaintiff has abandoned these claims by failing to raise them in the statement of questions presented, *Maryland Casualty Co v Allen*, 221 Mich App 26, 33; 561 NW2d 103 (1997), failing to argue these claims on the merits, *Dresden v Detroit-Macomb Hospital Corp*, 218 Mich App 292, 300; 553 NW2d 387 (1996), and failing to support her claims with any authority, *Neal v Oakwood Hospital Corp*, 226 Mich App 701, 722; 575 NW2d 68 (1997).