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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA23-528

Filed 20 August 2024

Edgecombe County, No. 21 CVS 1

CARLOS CHAVEZ, Plaintiff,

v.

MICHELLE LOGAN, Defendant.

Appeal by Plaintiff Carlos Chavez from order for directed verdict for Defendant Michelle Logan entered 15 November 2022 by Judge William D. Wolfe in Edgecombe County Superior Court. Heard in the Court of Appeals 15 November 2023.

*Ricci Law Firm, PA, by Attorney Thomas J. Schiro, for the plaintiff-appellant.*

*Poyner Spruill, LLP, by Attorney Dylan J. Castellino, for the defendant-appellee.*

STADING, Judge.

**I. Background**

On 30 August 2019, Defendant and her husband, Gerald Logan (collectively, “the Logans”), invited Plaintiff, Plaintiff’s wife, and several of Defendant’s coworkers for a boat outing on the Tar River. After Plaintiff and the other invitees arrived around 9:00 A.M. that morning, the boaters loaded into the river via a nearby ramp.

After spending the day on the river, they all returned to the ramp around 5:00 P.M. to disembark. The participants unloaded their belongings onto the Logans' golf cart for return to the Logans' house. Defendant sat in the driver seat. Jose Alvarez, a non-party invitee, sat in the front passenger seat. Facing the opposite direction with a cooler underneath their collective seat, Plaintiff sat directly behind Defendant, and Defendant's husband sat directly behind Alvarez. Defendant drove them back to the Logans' house, roughly fifty yards away.

At this point, recollections differ between the parties' witnesses who claimed they saw the entire subsequent sequence of events. Testifying for Defendant, Alvarez stated that Defendant "drove straight" toward her house "without swerving [ ] at a normal speed." On the other hand, Plaintiff's wife testified to watching Defendant drive away at a much "faster rate of speed" than otherwise safe. Although the subsequent events "happened very quickly," she "saw the accident happen" in its entirety. Plaintiff's wife stated that, after the cart headed towards the Logans' house, she saw Plaintiff and Defendant's husband "both flew up in the air" right as Defendant "turned and stopped [the golf cart] very quickly." Defendant's attorney did not contest that Plaintiff and Defendant's husband flew away from the cart simultaneously but did get Plaintiff's wife to concede a lack of direct knowledge about the precise sequence of events or the ejection's ultimate cause. After the accident, Plaintiff suffered long-term physical and neurological damage.

On 4 January 2021, Plaintiff filed suit against Defendant alleging negligent

operation of the golf cart. On 9 May 2022, Plaintiff consulted Dr. James B. Cooper, a board-certified neurologist. Dr. Cooper Plaintiff him for a personal neurological assessment only that day and recommended further specialized treatment elsewhere. In a 30 October 2022 deposition, Dr. Cooper confirmed that Plaintiff retained him as a treating physician and an expert witness for the trial at issue. In this same deposition, Dr. Cooper testified to Plaintiff-related evidence in both capacities.

At the start of the 7 November 2022 trial, the trial court partially granted and partially denied Defendant's motion *in limine* to suppress Dr. Cooper's testimony. The case proceeded to a full jury trial. The trial court granted Defendant's motion for a directed verdict at the close of Plaintiff's evidence, reasoning that Plaintiff's wife's lack of personal knowledge of the cause of Plaintiff's injuries negated the claim's proximate-cause element. Plaintiff timely appealed the trial court's directed verdict and partial exclusion of Dr. Cooper's testimony.

## II. Jurisdiction

Under N.C. Gen. Stat. § 7A-27(b), this Court has jurisdiction to review the trial court's directed verdict. N.C. Gen. Stat. § 7A-27(b)(1) (2023).

## III. Analysis

On appeal, Plaintiff asks this Court to consider whether the trial court erred in (1) granting Defendant's motion for a directed verdict and (2) precluding portions of Dr. Cooper's testimony. For the reasons discussed below, this Court holds that the trial court erred in granting Defendant's motion for a directed verdict and

consequently the issue of precluded testimony is moot.

### A. Directed Verdict

First, Plaintiff argues that the trial court erred in granting Defendant's motion for a directed verdict because a reasonable jury could infer that Defendant proximately caused his injuries through her negligent driving. On appeal, this Court reviews a successful motion for a directed verdict *de novo*. See *Smith v. Herbin*, 247 N.C. App. 309, 312, 785 S.E.2d 743, 745 (2016). A trial court may not grant this motion "if, viewing the evidence in the light most favorable to the non-movant, there is 'more than a scintilla of evidence supporting'" his proximate-cause claim. *Id.*

Under North Carolina case law, a factfinder may infer proximate causation if the plaintiff's injuries would not have occurred but for a "natural and continuous sequence" stemming from the defendant's actions.<sup>1</sup> *Hairston v. Alexander Tank & Equip. Co.*, 310 N.C. 227, 233, 311 S.E.2d 559, 565 (1984). A trial court may "decide proximate cause as a matter of law" only if "reasonable minds cannot differ as to" this natural-and-continuous element. *Williams v. Carolina Power & Light Co.*, 296 N.C. 400, 403, 250 S.E.2d 255, 258 (1979). Put simply, the record evidence must be "susceptible [to only a] single inference by the jury." *Hairston*, 310 N.C. at 235, 311 S.E.2d at 566.

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<sup>1</sup> Under North Carolina law, proximate cause also requires but-for causation and an injury that "a person of ordinary prudence could have reasonably foreseen" as a result of "all the facts as they existed." *Hairston v. Alexander Tank & Equip. Co.*, 310 N.C. 227, 311 S.E.2d 559 (1984). Neither party questions the application of these two elements to the facts at hand; thus, we address here only the first element—a "natural and continuous sequence."

Our review shows that Plaintiff provided “more than a scintilla of evidence” to support his claim that Defendant proximately caused his injuries. *Smith*, 247 N.C. App. at 312, 785 S.E.2d at 745; *see also Branch v. High Rock Realty, Inc.*, 151 N.C. App. 244, 249–50, 565 S.E.2d 248, 252 (2002). Here, Plaintiff’s wife testified about how Defendant sharply turned into the Logans’ driveway and braked abruptly, all while sending Defendant’s husband and Plaintiff “in[to] the air” in “one action.” Despite this testimony about the events leading up to the accident, the trial court’s ruling focuses on Plaintiff’s wife’s lack of personal knowledge regarding their sequential order. While helpful to a case at the outset, a jury may still infer provable knowledge of events and facts at trial. *See Holt v. N.C. DOT*, 245 N.C. App. 167, 179, 781 S.E.2d 697, 705–06, *aff’d per curiam*, 369 N.C. 57, 791 S.E.2d 458 (2016). Thus, Plaintiff’s wife’s lack of direct knowledge does not destroy Plaintiff’s claim. *See id.* (“[P]roximate cause need not be proven to an absolute certainty.”).

We disagree with Defendant’s contention that Plaintiff’s “mere speculation” mirrors that of *Gibson v. Ussey*, 196 N.C. App. 140, 675 S.E.2d 666 (2009). In *Gibson*, this Court considered whether the plaintiff presented sufficient evidence that the defendants negligently failed to maintain the floorboards of their condominium stairs that she tripped on during an open house. *Id.* The plaintiff’s *only* supporting witness testified that the plaintiff “fell forward” on the staircase without *any* additional testimonial evidence of how that fall happened. *Id.* at 142, 675 S.E.2d at 668. This Court granted the defendants’ motion for a directed verdict, reasoning that the

plaintiff's lack of further support failed to escape "the realm of suspicion" that ordinarily precludes jury consideration. *Id.* at 144, 675 S.E.2d at 668–69.

Plaintiff does not face the same barrier to trial here because he presented additional evidence that Defendant's husband was also thrown from the golf cart "at the same time." Taken in the light most favorable to Plaintiff, a reasonable jury could infer that the simultaneous ejection of Plaintiff and Defendant's husband was a "natural and continuous sequence" of Defendant's *preceding* sharp turn at a high speed. *Hairston*, 310 N.C. at 233, 311 S.E.2d at 565. Thus, this Court holds that the trial court erred in granting Defendant's motion for a directed verdict.

#### **B. Testimony**

Second, Plaintiff argues that the trial court committed error by excluding portions of Dr. Cooper's testimony. This issue is moot in view of our holding that the trial court erred in granting Defendant's motion for a directed verdict.

#### **IV. Conclusion**

For the reasons discussed above, this Court holds that the trial court erred in granting Defendant's motion for a directed verdict.

REVERSED AND REMANDED.

Judges MURPHY and GRIFFIN concur.

Report per Rule 30(e).