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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA24-249

Filed 3 December 2024

Buncombe County, No. 22CVS3055

DAWN MARIE WESTMORELAND, Plaintiff,

v.

MATTHEW MOHAMMED-OMAR TAMARI, Defendant.

Appeal by plaintiff from order and judgment entered 13 September 2023 by Judge David H. Strickland in Buncombe County Superior Court. Heard in the Court of Appeals 23 October 2024.

*Heidgerd & Edwards, LLP, by Eric D. Edwards, for plaintiff-appellant.*

*Hedrick Gardner Kincheloe & Garofalo, LLP, by Kristie L. Hedrick, and Hall, Booth, Smith PC, by J. Boone Tarlton, for defendant-appellee.*

GORE, Judge.

Plaintiff initiated this negligence action against defendant. A trial occurred from 11 September to 13 September 2023, after which the trial court issued a directed verdict in favor of defendant on 28 September 2023. Plaintiff filed a notice of appeal on 12 October 2023.

On 4 March 2019, plaintiff's vehicle was struck from behind while stationary

at a traffic light, resulting in alleged serious injuries, including whiplash, migraines, and traumatic brain injury. Plaintiff proceeded to trial as a *pro se* litigant, where she sought to present testimony from two medical expert witnesses regarding her injuries, but the trial court limited their testimony due to their status as chiropractors. The court also denied plaintiff's requests to present further evidence, despite acknowledging her cognitive issues and lack of legal knowledge. Ultimately, the trial court granted defendant's motion for directed verdict, dismissing plaintiff's negligence claims.

Plaintiff filed a Conditional Petition for Writ of Certiorari on 25 March 2024, concerning the identification of the appeal order and her notice of appeal. Petitioner's notice of appeal filed in this matter does, however, comply with the requirements of our Rules of Appellate Procedure. *See* N.C.R. App. P. 3(c)–(d) (time for taking appeal and content of notice of appeal). The trial court's Order dated 28 September 2023, granting defendant's motion for directed verdict, is a final judgment and order of the Superior Court, Buncombe County, and appeal therefore lies to this Court pursuant to N.C.G.S. § 7A-27(b)(1).

Plaintiff raises three issues on appeal: (1) whether the trial court erred in limiting testimony from plaintiff's expert witnesses; (2) whether the trial court erred in not allowing plaintiff to present additional evidence; and (3) whether the trial court erred in entering directed verdict in favor of defendant. Upon review, we discern no error.

The trial court restricted the testimony of plaintiff's witnesses, Dr. Walicki and Dr. Cohn, both chiropractors, to only "chiropractic" information. They were not allowed to address neurology, orthopedic care, or radiology concerning plaintiff's concussion and traumatic brain injury. While plaintiff argues that chiropractic care can encompass these areas, North Carolina law limits chiropractic testimony to matters directly related to the spine. *See* N.C.G.S. § 90-157.2 (2023) ("Chiropractor as expert witness"). This Court has reasoned that this statute allows a chiropractor to testify "as to the spinal column and the physical structures that support and/or complement it." *Thomas v. Barnhill*, 102 N.C. App. 551, 554 (1991) (citation omitted). Here, the trial court's decision to limit the testimony is well grounded in applicable law.

The trial court's ruling on the admissibility of expert testimony will not be reversed on appeal absent a showing of abuse of discretion. *State v. McGrady*, 368 N.C. 880, 893 (2016). An abuse of discretion occurs when the trial court's "ruling was manifestly unsupported by reason and could not have been the result of a reasoned decision." *Id.* (citation omitted). Here, we discern no error of law, and therefore, no abuse of discretion.

Next, plaintiff rested her case on two separate occasions. After the first instance, the trial court granted plaintiff's request to reopen. The trial court did not, however, grant plaintiff's second request to reopen after she later rested again. Plaintiff argues the trial court abused its discretion by denying her second request.

We disagree.

Here, the trial court was mindful of plaintiff's status as a *pro se* litigant, and it explained that resting her case meant she could not submit further evidence—including physical exhibits and additional witness testimony. “Though we are not unsympathetic to the difficulties faced by a *pro se* litigant, we have recognized that fairness to opposing parties requires holding *pro se* litigants to minimal standards of compliance with the Rules of Civil Procedure.” *Harrison v. Harrison*, 180 N.C. App. 452, 455 (2006). The Rules of Evidence and the Rules of Civil Procedure exist to “promote the orderly and uniform administration of justice,” and “all litigants are entitled to rely upon them.” *Goins v. Puleo*, 350 N.C. 277, 281 (1999). *Pro se* litigants must follow court rules and procedure. *Shwe v. Jaber*, 147 N.C. App. 148, 149–52 (2001). The “rules must be applied equally to all parties to a lawsuit, without regard to whether they are represented by counsel.” *Goins*, 350 N.C. at 281.

When plaintiff rested her case a second time, it was reasonable for the court to assume she understood the consequences of her action. If she did not understand, it was not an abuse of discretion for the court to deny her second request to present additional evidence. Ultimately, plaintiff fails to show how the trial court's decision to deny her second request to reopen the evidence was a decision “manifestly unsupported by reason” or “so arbitrary that it could not have been the result of a reasoned decision.” *White v. White*, 312 N.C. 770, 777 (1985).

At the close of plaintiff's evidence, the trial court granted defendant's motion

for directed verdict. In support of its decision, the trial court reasoned that plaintiff did not offer sufficient evidence to support all of the elements of negligence. Plaintiff asserts the trial court erred in entering a directed verdict in favor of defendant. We disagree.

“To prevail in a common law negligence action, a plaintiff must establish that the defendant owed the plaintiff a legal duty, that the defendant breached that duty, and that the plaintiff’s injury was proximately caused by the breach.” *Martishius v. Carolco Studios, Inc.*, 355 N.C. 465, 473 (2002) (citation omitted). For a negligence claim to survive a motion for directed verdict, the non-moving party must provide evidence “beyond mere speculation and conjecture” as to every essential element of negligence. *Oliver v. Royall*, 36 N.C. App. 239, 242 (1978).

Regarding a trial court’s decision to grant or deny a motion for directed verdict, the standard of review is whether, upon reviewing the evidence in the non-moving party’s favor, the evidence is sufficient as a matter of law to go to the jury. *Campbell v. Ingram*, 108 N.C. App. 239, 240 (2006). This Court reviews the grant of a motion for directed verdict de novo. *Id.* The burden is on the plaintiff to prove damages. See *Hien Nguyen v. Taylor*, 219 N.C. App. 1, 18 (2012).

Here, defendant’s testimony established that he breached his duty of care, which he previously admitted to, but not proximate cause. No witness testified as to the proximate cause of any loss of earnings, loss of enjoyment of life, or pain and suffering. This Court has established that “mere speculation or conjecture” is

insufficient to determine an essential element of plaintiff's negligence claim. *Oliver*, 36 N.C. App. at 242. Because sufficient evidence of proximate cause was not submitted to the jury, the jury would be left to speculate as to an essential element of negligence. As a result, plaintiff did not meet her burden of proof. *See id.* The trial court, therefore, correctly granted the motion for directed verdict in favor of defendant.

For the above stated reasons, we discern no error in the trial court's Order granting defendant's motion for directed verdict.

NO ERROR.

Judges STADING and THOMPSON concur.

Report per Rule 30(e).