

MAY 17 1987

STATE OF MICHIGAN
COURT OF APPEALS

JAMES WRIGHT and ISABEL WRIGHT,
Plaintiffs-Appellants,

MAR 18 1987

v

No. 92481

NATHANIEL THOMAS SHELTON, JR.,
Defendant-Appellee.

BEFORE: J.B. Sullivan, P.J., R.S. Gribbs and E.C. Penzien*, JJ.

PER CURIAM

Plaintiffs filed a complaint against defendant in Wayne County Circuit Court, alleging that plaintiff James Wright was injured when the vehicle which he was operating was involved in an accident with the vehicle which defendant was driving. Defendant moved for summary disposition, contending that plaintiff's injuries did not meet the threshold of serious impairment of body function, MCL 500.3135; MSA 24.13135. The trial court granted defendant's motion, and plaintiffs appeal as of right.

In granting defendant's motion, the lower court applied the standards set forth in Cassidy v McGovern, 415 Mich 483; 330 NW2d 22 (1982). However, the subsequent Michigan Supreme Court decision of DiFranco v Pickard, ___ Mich ___ (Docket No. 74692, decided December 23, 1986) substantially changed those standards

even if the evidentiary facts are undisputed. The new standards, as summarized in the syllabus attached to DiFranco, are as follows:

"Recovery of noneconomic damages was not intended to be limited to catastrophic injuries. The 'serious impairment of body function' threshold is a significant, but not extraordinarily high, obstacle to recovery. Impairment need not be of the entire body function or of an important body function. The threshold requires inquiry into what body function, if any, was impaired because of injuries sustained in a motor vehicle accident, and whether the impairment was serious. The focus of the inquiry is not on the injuries, but on how the injuries affected a particular body function, generally requiring medical testimony to establish the existence, extent, and permanency of the impairment.

"In determining whether an impairment was serious, the extent of the impairment, the particular body function impaired, the length of time of the impairment, the treatment required to correct the impairment, and any other relevant factors should be considered. An impairment need not be permanent to be serious. Nor is it necessary that an injury be seen or felt to permit recovery. Rather, the noneconomic loss must be shown to have arisen from a medically identifiable injury which seriously impaired a body function. When the threshold question is submitted to the jury, the jury should be instructed as to the twofold nature of the inquiry and as to the factors to be considered in determining seriousness."

Therefore, we remand this case to the circuit court for reconsideration in the light of DiFranco. We do not retain jurisdiction. No costs.

/s/ Joseph B. Sullivan
/s/ Roman S. Gribbs
/s/ Eugene C. Penzien