STATE OF MICHIGAN

COURT OF APPEALS

MICHAEL RAY HEFLIN, Personal Representative of the ESTATE OF KATHLEEN HEFLIN, Deceased.

Plaintiff-Appellant,

v

BOARD OF COUNTY ROAD COMMISSIONERS OF THE COUNTY OF VAN BUREN,

Defendant-Appellee,

and

DENISE LOUISE GENEREAUX and JERRELL W. GOODSON,

Defendants.

UNPUBLISHED
November 8, 1996

No. 177570
LC No. 89-003367-NO

Before: White, P.J., and Sawyer and R.M. Pajtas,* JJ.

PER CURIAM.

Plaintiff appeals from a judgment of the circuit court entered upon a jury verdict of no cause of action on plaintiff's wrongful death claim. We affirm in part and remand in part.

Plaintiff first argues that the trial court erred in providing the jury with only part of the transcripts requested by the jury during deliberations. We disagree. During deliberations, the jury sent out a note asking questions about the testimony of at least two witnesses, McCulfor and Genereaux. The court instructed the jury to rely upon their collective memories to answer those questions. Thereafter, the jury asked that the court reconsider its request to see or hear the deposition testimony of McCulfor, the investigating officer. The court responded by inquiring whether the jury had a specific question about McCulfor's testimony. The jury responded:

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* Circuit judge, sitting on the Court of Appeals by assignment.

> We are interested in the questions and answers given by the witnesses that were at the scene. If that is all we can have, but we would like to see the whole thing if possible.

Plaintiff's counsel initially agreed that the jury would be given an edited copy of McCulfor's deposition, but then argued that the testimony of the other witnesses at the scene should also be supplied because the jury had stated their interest in the questions and answers given by all the witnesses at the scene and McCulfor's testimony favored defendant. The trial court ruled that it would give the edited transcript of McCulfor's deposition, and would be "open to any other requests that they have with respect to any other witnesses." We conclude that plaintiff's argument is without merit because the jury's request was specifically addressed to McCulfor's deposition. The trial court did not abuse its discretion. *Whitney v Day*, 100 Mich App 707; 300 NW2d 380 (1980).

Next, plaintiff argues that the trial court erred in giving the jury an "act of God" instruction. Plaintiff, however, has not adequately preserved this issue for review. Plaintiff presents two arguments on appeal regarding this point. First, plaintiff argues that such an instruction does not apply to the facts of this case. However, that was not the basis for plaintiff's objection below and, therefore, that argument is not preserved for review. The basis of plaintiff's objection at trial, and the argument that is advanced as the second basis for challenging the instruction on appeal, was that the instruction did not accurately state the law. However, plaintiff did not explain to the trial court how the instruction was inaccurate. An objection must specifically state the objectionable matter and the ground for objection; a general objection will not preserve an issue over an improper instruction. MCR 2.516(C); *Hammack v Lutheran Social Services of Michigan*, 211 Mich App 1; 535 NW2d 215 (1995).

Plaintiff next argues that the trial court erred in admitting hearsay testimony by McCulfor. We disagree. At issue are statements made by Denise Genereaux to Deputy McCulfor in which Genereaux admitted at the scene of the accident that she lost control of her vehicle before her vehicle left the road. The trial court held that the statements were admissible under MRE 804(b)(3) as a statement against interest by an unavailable witness. A statement that one lost control of their vehicle, resulting in an accident, is certainly against the person's pecuniary interest to the extent that it subjects them to possible civil or criminal liability. Therefore, the trial court did not err in admitting the statements.

Next, plaintiff argues that the trial court erred by excluding evidence that the road was not reasonably safe because of a lack of necessary regulatory or warning signs. We believe that a remand is necessary to resolve this issue. First, we note that the trial court's ruling was appropriate in light of the controlling precedent at the time, *Pick v Gratiot Co Rd Comm*, 203 Mich App 138; 511 NW2d 694 (1993). However, subsequent to the submission of the instant case, the Supreme Court reversed the *Pick* decision in *Pick v Szymczak*, 451 Mich 607; ___ NW2d ___ (1996). Because plaintiff's experts were excluded from discussing any claims related to the need for signs along the roadway, it is not clear whether the testimony and related claims should have been permitted at trial. Accordingly, on remand the trial court shall consider the applicability of the Supreme Court's decision in *Pick* and determine whether plaintiff is entitled to a new trial on this issue.

Finally, plaintiff argues that the trial court erred in refusing to excuse for cause a potential juror. However, even assuming that the trial court improperly denied that challenge for cause, plaintiff has not established all of the elements necessary in order to prevail. In addition to establishing that the court improperly denied a challenge for cause and all peremptory challenges were exhausted, plaintiff must also establish a desire to use a peremptory challenge on another juror and show why that juror was objectionable. Although plaintiff stated a desire to have dismissed another juror by peremptory challenge, plaintiff did not explain what other juror was objectionable or why that juror was objectionable.

For the above reasons, we affirm the decision of the trial court with the exception of claims based upon the issue of improper regulatory or warning signs. The trial court shall reconsider that issue on remand and determine whether plaintiff does, in fact, have a potentially valid claim on that issue in light of the Supreme Court's recent decision in *Pick*, *supra*. The trial court shall grant plaintiff a new trial on that issue if it determines that *Pick* applies to the facts of this case and that there exists a genuine issue of material fact.

Affirmed in part and remanded in part. We do not retain jurisdiction. No costs, neither party having prevailed in full.

/s/ David H. Sawyer
/s/ Richard M. Pajtas