STATE OF MICHIGAN

COURT OF APPEALS

DARRON SCOTT MOREY,

Plaintiff-Appellant,

v

AUTO CLUB INSURANCE ASSOCIATION, AUTO CLUB GROUP INSURANCE COMPANY, and CASTLE INSURANCE COMPANY, a/k/a AAA MICHIGAN,

Defendants-Appellees.

UNPUBLISHED
January 6, 1998

No. 198341
Allegan Circuit Court
LC No. 95-018652 NI

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

The question posed by this appeal as of right is whether plaintiff's unlawful operation of a snowmobile on a rural roadway precludes him from receiving no-fault insurance benefits under MCL 500.3106(1)(a); MSA 24.13106(1)(a) for "accidental bodily injury," where plaintiff sustained injury when the snowmobile he was operating struck the rear of a motor vehicle parked at the side of, but still in, the traveled portion of the roadway. We conclude that it does and, therefore, affirm the trial court's grant of summary disposition in favor of defendants. We decide this appeal without oral argument pursuant to MCR 7.214(E).

Snowmobiles are not motor vehicles for purposes of the no-fault statute. *Wills v State Farm Ins Cos*, 437 Mich 205, 209 (Cavanagh, C.J., joined by Boyle, J.), 215 (Riley, J.), 216 (Griffin, J.); 468 NW2d 511 (1991)[1]; See also *Schuster v Allstate Ins Co*, 146 Mich App 578, 582; 381 NW2d 773 (1985). Accordingly, if plaintiff is to collect no-fault benefits, he may do so solely based on the fact that his snowmobile collided with a parked motor vehicle that was in use as a motor vehicle.

Under the no-fault act, compensable "accidental bodily injury" from the use of a motor vehicle does not arise in connection with a parked vehicle unless one of the statutory exceptions is satisfied. MCL 500.3106(1); MSA 24.13106(1); *Wills, supra* at 209. Section 3106(1)(a), upon which plaintiff

relies, allows recovery when the vehicle "was parked in such a way as to cause unreasonable risk of the bodily injury which occurred."

It was not unreasonable for the automobile owner to park his vehicle without regard for the protection of plaintiff, who was not legally on the roadway where the vehicle was parked. *Wills, supra* at 214-215. Accordingly, plaintiff's injuries were not compensable under the no-fault act. *Id*.

Affirmed. Defendant, being the prevailing party, may tax costs pursuant to MCR 7.219.

/s/ Richard Allen Griffin
/s/ Stephen J. Markman
/s/ William C. Whitbeck

[1] There was not a single majority opinion in *Wills*. Justice Griffin concurred with then Chief Justice Cavanagh's lead opinion in *Wills* except with regard to a portion of that opinion upon which we do not rely. Justice Riley stated that she concurred in Chief Justice Cavanagh's lead opinion, but then noted an area of disagreement with the lead opinion that is inapplicable to the issue before us. We take this as meaning that Justice Riley concurred in all other aspects of the lead opinion. Accordingly, our citation to *Wills* in the remainder of this opinion is only to portions of Chief Justice Cavanagh's lead opinion that constituted a majority view of the Michigan Supreme Court.