

MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Sein Thu,
Appellant,

v.

Guy Willis, Sr., Adriel Willis,
and Guy Willis, Jr.,
Appellees.

March 13, 2023

Court of Appeals Case No.
22A-CT-1450

Appeal from the Allen Superior
Court

The Honorable Jennifer L.
DeGroote, Judge

Trial Court Cause No.
02D03-2007-CT-361

Memorandum Decision by Judge Bailey
Chief Judge Altice and Judge Riley concur.

Bailey, Judge.

Case Summary

[1] In May 2019, Sein Thu rear ended a vehicle being driven by Guy Willis, Sr. (“Guy”), in which Guy’s sons Adriel Willis (“Adriel”) and Guy Willis, Jr. (“Shawn”) were passengers.¹ Guy and his sons filed a complaint for negligence against Thu. Following a jury trial at which Guy and his sons presented only their testimony and medical records and bills as evidence, the jury found in favor of Guy and his sons and awarded damages, and the court entered judgment accordingly. Thu now appeals and presents the following revised and restated issue: whether Guy presented sufficient evidence to demonstrate that the accident caused his injuries.² We affirm.

Facts and Procedural History

[2] On May 25, 2019, Guy was driving a vehicle, and his sons Adriel and Shawn were passengers. While Guy’s vehicle was stopped at an intersection, Thu rear ended them. Shawn “felt a lot of pain” in his back “[a]t the moment of impact[.]” Tr. at 128. Later, he realized that his left leg felt “weird” and that he had a “limp.” *Id.* at 129. Adriel’s head hit the dashboard, but he did not

¹ Guy, Jr. testified that he prefers to be called Shawn.

² Prior to trial, Thu informed the court that he was “not really contesting the other cases besides the senior[.]” meaning Guy, Sr. Tr. at 22. And, on appeal, he does not challenge the judgments in favor of Adriel or Shawn.

immediately experience any pain. The impact also caused Guy's head to "hit the steering wheel." *Id.* at 159.

[3] Shortly after the accident, the police and Guy's wife arrived. Officers asked if Guy and his sons wanted an ambulance, but Guy declined because his wife could drive them. Guy's wife drove them home to collect a few items, then to a hospital. At the hospital, Shawn complained of low back pain, and doctors discovered a muscle spasm in his back. By the time they had arrived at the hospital, Adriel had "a lot of pain" in his neck. *Id.* at 147. Adriel informed the doctors of his pain, and doctors found a muscle spasm in his neck. Guy complained of "problems with [his] neck and pain going down the left side of [his] body." *Id.* at 165. Doctors also discovered a muscle spasm in his neck. Doctors prescribed all three individuals anti-inflammatories and muscle relaxers. Adriel's pain subsided within the week.

[4] On June 3, Guy was experiencing "[a] lot of pain and discomfort," so he sought treatment with a nurse practitioner at his primary care physician's office. *Id.* at 167. Guy informed the nurse practitioner that he had neck pain that "was radiating down [his] back and down [his] side" on the left side of his body. *Id.* at 169. He also reported sciatica pain that "radiates from right lower back down his right leg." Ex. at 36. The nurse practitioner conducted an examination and noted "[m]uscular tenderness" in Guy's neck. *Id.* at 37. The nurse practitioner prescribed a different medication.

- [5] On June 6, Shawn sought treatment at another facility because he had “a lot of back and leg complications.” Tr. at 132. Doctors gave him another prescription and told him to “lay low for a little while.” *Id.* at 137. Shawn’s pain continued for another “week to two weeks” but then improved. *Id.* at 136.
- [6] On September 18, Guy sought treatment at another hospital. Guy complained of “pain in the left side of his neck and pain that radiates down his back with pain[,] numbness[,] and tingling in his left leg.” Ex. at 42. Doctors examined Guy and found “tenderness” in his neck and shoulder area as well as his back and left hip. Tr. at 176. Doctors performed some imaging studies on Guy. The result of the MRI showed “mild multilevel degenerative disc changes” to a portion of his spine. Ex. at 41. And the results of a CT scan showed “arthritic changes[.]” *Id.* Doctors recommended that he follow up with his primary care physician. Approximately a month after that visit, Guy’s pain subsided.
- [7] On July 17, 2020, Guy and his sons filed a complaint against Thu in which they alleged that Thu had been negligent and that his negligence had resulted in “serious physical injuries” and medical expenses.³ Appellant’s App. Vol. 2 at 27. Prior to trial, Thu admitted that he had caused the accident. He then filed a motion in limine seeking to prevent Guy from admitting any evidence or testimony about the “causation of [Guy’s] second emergency room visit absent reliable medical expert testimony.” *Id.* at 37. Specifically, Thu asserted that

³ Guy’s wife was also initially a plaintiff, and she filed claims for loss of services and loss of consortium. But she dismissed her claims.

“the question of the causal connection between a permanent condition, an injury[,] and a pre-existing affliction or condition is a complicated medical question” that is “not within the understanding of a lay person[.]” *Id.* at 42. Thu further contended that Guy’s “injuries were subjective in nature and his testimony alone is not sufficient to prove causation without expert medical testimony.” *Id.* at 50. Guy responded and asserted that a “layperson can readily understand the causal connection between a rear-end collision and acute, temporary neck and back pain” such that expert medical testimony is not required. *Id.* at 60. The court denied Thu’s motion.

- [8] Pursuant to a court order, Guy and Thu prepared a joint exhibit notebook for trial. During the preparation, Guy attempted to include medical records and bills, but Thu objected. Guy then filed a motion in which he asked the court to determine the admissibility of his medical records and bills. In particular, Guy asserted that Thu’s motion in limine did not prohibit the admission of his medical records or bills and that the rules of evidence only required that he redact any medical opinions and diagnoses. In response, Thu again asserted that “expert medical testimony is required to discuss causation” of Guy’s claimed injuries and that Guy “cannot rely on [his] medical records to casually [sic] relate [his] injuries without presenting expert medical opinion.” *Id.* at 126. The court found that the medical records could be admitted with proper redactions of medical opinions and diagnosis and that the medical bills were also admissible.

[9] The court held a jury trial on May 24, 2022. At the start of the trial, Thu objected to any testimony regarding the cause of Guy’s injuries without expert medical testimony and to the admission of the medical records and bills. The court overruled those objections. During the trial, Guy testified that, between the date of the accident and the day he went to the second hospital, he had “times where he felt better than others” but that the pain “didn’t go away.” *Id.* at 173. Guy also acknowledged that he had “back pain that he experienced before” the car crash. *Id.* at 179. But he testified that it was “different” because the pain prior to the accident was “intermittent pain on [his] right side” while the pain after the accident was on his “left side.” *Id.*

[10] After Guy and his sons had rested their case, Thu moved for a directed verdict as to all three plaintiffs. Thu again asserted that Guy was “not qualified to testify” about the diagnosis or prognosis of his injuries, that he “should not be allowed to testify about the causation of” his injuries, and that he “should not be allowed to rely” on his medical records to causally relate his injuries to the accident. *Id.* at 194. And he maintained that, “[w]ithout expert medical testimony,” there was no evidence of causation or damages. *Id.* at 195. The court denied Thu’s motion, and the matter proceeded to the jury. The jury found in favor of Guy and his sons and awarded damages as follows: \$30,000 to Guy, \$1,000 to Adriel, and \$1,800 to Shawn. The court entered judgment accordingly. This appeal of the judgment in favor of Guy ensued.

Discussion and Decision

[11] While Thu raises several issues, including that the court abused its discretion when it admitted evidence and that the court erred when it denied his motion for a directed verdict, the essence of Thu's argument on appeal is that Guy failed to present sufficient evidence to support the jury's verdict in his favor. In the appellate review of a claim of insufficient evidence in a civil case, we affirm when, considering the probative evidence and reasonable inferences, a reasonable jury could have arrived at the same determination. *TRW Vehicle Safety Sys., Inc. v. Moore*, 936 N.E.2d 201, 209 (Ind. 2010). We will consider only the evidence and inferences most favorable to the judgment in conducting our review. *Id.*

[12] To prevail on his claim for negligence, Guy was required to prove that Thu owed Guy a duty, that Thu breached that duty by allowing his conduct to fall below the applicable standard of care, and that Guy sustained an injury that was proximately caused by Thu's breach of duty. *See Goodwin v. Yeakle's Sports Bar and Grill, Inc.*, 62 N.E.3d 384, 386 (Ind. 2016). Thu has never disputed that he owed a duty to Guy or that he breached that duty when he caused the car accident. However, Thu contends that Guy failed to present sufficient evidence to demonstrate that his injuries were proximately caused by the accident because Guy did not present expert medical testimony to connect the crash to his injuries.

[13] This Court has previously clarified that expert medical testimony is not always required in personal injury cases. *See Martin v. Ramos*, 120 N.E.3d 244, 249 (Ind. Ct. App. 2019). Rather:

If a layperson can readily understand the causation, an expert opinion is not necessary. “An essential element in a cause of action for negligence is the requirement of a reasonable connection between a defendant’s conduct and the damages which a plaintiff has suffered.” *Daub* [*v. Daub*], 629 N.E.2d [873,] 877 [(Ind. Ct. App. 1994), *trans denied*]. “When an injury is objective in nature, the plaintiff is competent to testify as to the injury and such testimony may be sufficient for the jury to render a verdict without expert medical testimony.” *Id.* But a “causal connection between a permanent condition, an injury, and a preexisting affliction or condition is a complicated medical question.” *Topp* [*v. Leffers*], 838 N.E.2d [1027,] 1033 [Ind. Ct. App. 2005)] (citing *Daub*, 629 N.E.2d at 877-78)). Expert testimony is needed then because a layperson is unable to understand causation in those circumstances. *Id.*

Id. at 249-50.

[14] On appeal, Thu contends that expert medical testimony was required to establish the cause of Guy’s injuries because the “alleged injuries were not objective in nature” but were “complicated, soft-tissue injuries, the cause of which was not within the understanding of a lay person.” Appellant’s Br. at 16. In particular, Thu contends that Guy “testified that the pain from the accident was all on his left side” but that he complained of a history of sciatica and “*was uncertain as to which side.*” *Id.* at 17 (emphasis in original). And Thu contends that Guy admitted to having back pain prior to the accident. Thus, Thu maintains that Guy lacked “the expertise and background to testify whether those diagnoses were related to or caused his prior back pain or their relationship to his alleged injuries after the accident.” *Id.*

[15] Guy responds and asserts that his injuries were objective because the doctor at the first hospital visit noted “palpable muscle spasms” in his neck. Appellees’ Br. at 26 (emphasis removed). He also contends that, at the visit with the nurse practitioner one week after the accident, the nurse practitioner noted “pain in his cervical spine and muscle tension” in his lower back. *Id.* (emphasis removed). And he contends that he reported to the hospital four months later “due to his ongoing pain” and that doctors noted “tenderness” in his neck and back. *Id.* at 26-27. In addition, Guy asserts that he “did not experience any other injuries or accidents” following the crash and, while he had prior pain, it was “different” from the pain he experienced after the crash. *Id.* at 27. Thus, Guy maintains that expert medical testimony was not required to establish the cause of his injuries. We agree with Guy.

[16] Our Court has recently considered a similar issue. In *Martin*, Martin was in a stopped vehicle when he was rear ended by Ramos. 120 N.E.3d at 246-47. Martin sought treatment at a hospital, where he complained of pain in his neck and back. *Id.* Martin acknowledged that he had preexisting conditions and that he had experienced neck pain prior to the wreck. *Id.* However, he testified that the “wreck caused increased pain for a period of time.” *Id.* A CT scan also revealed a post-traumatic subarachnoid hemorrhage, and Martin had to be cleared by a neurosurgeon prior to leaving the hospital. *Id.* Over the next few months, Martin continued to seek medical treatment “due to ongoing back pain and neck stiffness.” *Id.*

[17] Martin filed a negligence claim against Ramos and, at a bench trial, submitted his testimony and medical records as evidence. At the conclusion of the trial, the court found that Martin’s evidence was “not sufficient to establish within a reasonable medical probability that the collision” had caused his injuries. *Id.* at 248. On appeal, this Court held that the hemorrhage noted in Martin’s medical records was “observable by the doctor” and independent of a patient report such that it was an objective injury. *Id.* at 251. Thus, the question became whether the crash was the cause of the injury. *Id.* This Court noted that Martin’s “claim was not for complex or permanent injuries—he simply sought compensation for pain associated with the rear-end automobile accident.” *Id.* at 252. The Court also noted that Martin had prior pain in his neck and back but determined that “the evidence of record in this non-complex claim for temporary injury is such that a lay person could readily understand whether or not the collision was *a* cause of injury to Martin.” *Id.* (emphasis in original). Accordingly, the Court held that “Martin testified and presented documentation regarding injury contemporaneous with the collision for which Ramos was at fault” and that the “lack of complexity is such that a factfinder can determine issues of causation and damages without expert testimony.” *Id.* As such, the Court reversed and remanded for further proceedings.

[18] Similarly, here, Guy reported “problems with [his] neck and pain going down the left side of [his] body” shortly after the accident. Tr. at 165. At the hospital, doctors discovered “palpable muscle spasms” in his neck. Ex. at 33. As such, Guy’s injury was “observable by the doctor” and independent of a

patient report such that it was an objective injury. *Martin*, 120 N.E.3d at 251. Thereafter, Guy's pain continued for approximately four months before it subsided. Thus, the question became whether the crash was the cause of the injury. *Id.* As in *Martin*, Guy's claims were not for complex or permanent injuries. *Id.* at 252. Rather, Guy simply sought compensation for temporary pain associated with a rear-end collision. *Id.*

[19] We acknowledge that Guy had preexisting back pain prior to the accident. However, contrary to Thu's arguments on appeal, the preexisting pain does not automatically necessitate expert medical testimony. Rather, here, at each of Guy's subsequent medical visits, Guy reported pain associated with the accident. In particular, Guy testified that, while he had times when he felt better than others, the pain "didn't go away" between the accident and the second hospital visit four months later. Tr. at 173. And Guy testified that the back pain following the accident was "different" from the pain he had experienced before the accident. *Id.* at 179. As a result, Guy "testified and presented documentation regarding injury contemporaneous with the collision" for which Thu was at fault and the "lack of complexity is such that a factfinder can determine issues of causation and damages without expert testimony." *Martin*, 120 N.E.3d at 252.

[20] Still, Thu contends that *Martin* is distinguishable and that this case is more analogous to *Daub v. Daub*, 629 N.E.2d 873 (Ind. Ct. App. 1994). In *Daub*, Patricia Daub slipped on snow and ice on her in-laws' patio. See *Daub*, 629 N.E.2d at 877. Daub felt a "jerk," but no pain. *Id.* The next day, after she had

spent “several hours” photocopying material at her son’s school, she felt stiffening. *Id.* Daub “just kind of associated it with bending over and standing up.” *Id.* She subsequently received chiropractic treatment and was hospitalized for ten days. She underwent two back surgeries, and then slipped and fell at a grocery store. Daub admitted that, years earlier, she had been struck by a car and she had also sustained a whiplash injury. *See id.* Daub testified at her trial against her in-laws, but she was unable to distinguish between her various back problems.

[21] On appeal, this Court noted that the record contained “no other evidence concerning the nature of Mrs. Daub’s back ailment, the treatment she received for the ailment[,] or its cause.” *Id.* This Court then held that Daub’s testimony “standing alone” was insufficient to support the jury’s verdict. *Id.* at 878. In particular, we held that her testimony was

so lacking in probative value on the question of cause in fact that it offers the jury at best only the mere possibility that her back ailment was in fact caused by the slip Mrs. Daub experienced at her in-laws. The distinctions between Mrs. Daub’s various back problems are not objectively discernible, even to Mrs. Daub. The temporal congruity which Mrs. Daub recognized between the slip and her lower back pain is admittedly some evidence of causation, which when coupled with a diagnosis of the nature of her ailment, and an application of scientific principles by one knowledgeable in the treatment of the ailment, may be sufficient to permit a jury to find for the Daubs without resort to speculation. But, in the absence of that additional evidence, Mrs. Daub’s lay report of the facts which she experienced first-hand amounts to nothing more than her own hypothesis that her back ailment was caused by the slip. Alone, Mrs. Daub has

established nothing more than the facts which make up her allegation.

Id. at 878. As such, we held that the trial court properly granted the in-laws' motion for judgment on the evidence because "[n]o reasonable inference that her in-laws' failure to keep their patio cleared of snow and ice was the proximate cause of Mrs. Daub's lower back problems can be drawn from the testimony of record." *Id.*

[22] However, contrary to Thu's assertions, *Daub* is distinguishable. First, following Daub's accident, Daub had extensive injuries that required two surgeries, ten days in the hospital, and chiropractic treatment. *Id.* at 877. However, here, Guy sustained only temporary pain for which he was never hospitalized and that subsided after four months. Second, and importantly, Daub acknowledged that she had prior pain from a previous back injury but she was unable to distinguish between her various back problems. But Guy consistently and explicitly testified that his temporary pain following the accident was different than any of his preexisting pain. We therefore agree with Guy and the trial court that this case is more analogous to *Martin* than *Daub*.

[23] Here, Guy was rear-ended while sitting in his vehicle. As a result, he sustained temporary back and neck pain that continued for approximately four months, which was different than the pain he experienced before the accident. Guy's injuries were not complex, and a lay person could readily understand the connection between that neck and back pain and a vehicle collision during which Guy's head hit the steering wheel. We therefore hold that Guy presented

“circumstantial evidence having sufficient probative force to constitute a basis for a legal inference rather than mere speculation.” *Martin*, 120 N.E.3d at 252 (quotation marks omitted).

Conclusion

[24] We hold that Guy did not need to present expert medical testimony to prove the causation of his injuries because a lay person could readily understand the connection between a car collision and temporary back pain. We therefore affirm the judgment in favor of Guy. Further, because Thu does not challenge the judgments in favor of Adriel and Shawn, we affirm those judgments.

[25] Affirmed.

Altice, C.J., and Riley, J., concur.