

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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RYAN HUNTER,

Plaintiff-Appellant,

v

AUTO CLUB INSURANCE ASSOCIATION,

Defendant,

and

TAYLOR HINES,

Defendant-Appellee.

UNPUBLISHED

September 23, 2014

No. 316795

Macomb Circuit Court

LC No. 2011-001956-NI

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Before: OWENS, P.J., and JANSEN and O'CONNELL, JJ.

PER CURIAM.

In this third-party no-fault action, plaintiff appeals as of right the trial court's judgment of no cause of action entered in favor of defendant Taylor Hines,<sup>1</sup> following a jury trial in which the jury found that plaintiff was an owner of the uninsured vehicle involved in the automobile accident, therefore making him ineligible to recover noneconomic damages under the no-fault act. We affirm.

Plaintiff was injured in an automobile accident that occurred when the vehicle he was driving collided with a vehicle driven by defendant Hines. Plaintiff brought this third-party no-fault action against defendants, seeking to recover noneconomic damages. Defendant Hines moved for summary disposition pursuant to MCR 2.116(C)(10), arguing that plaintiff was precluded from recovering noneconomic damages pursuant to MCL 500.3113(b) because he was driving an uninsured vehicle at the time of the accident and he was the owner of that vehicle. The trial court denied the motion, and the case proceeded to a jury trial on the sole issue of ownership. The jury found that plaintiff was an owner of the subject vehicle, and as such, the trial court entered a judgment of no cause of action in favor of defendant Hines.

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<sup>1</sup> Plaintiff voluntarily dismissed defendant Auto Club Insurance Association from the case.

Plaintiff's sole issue on appeal is whether the trial court abused its discretion by denying his motion for mistrial where the trial court's curative instruction was insufficient to cure the prejudicial effect of defense counsel's question regarding whether plaintiff had a felony conviction. We conclude that plaintiff has waived this issue for appellate review because his counsel expressly approved of the curative instruction. *People v Carter*, 462 Mich 206, 215-217; 612 NW2d 144 (2000). At counsel's request, the trial court gave the curative instruction that plaintiff now argues is futile. By requesting the specific curative instruction, plaintiff, by action of counsel, affirmatively approved of the instruction, thereby extinguishing any error. *Id.* at 217. " 'One who waives his rights under a rule may not then seek appellate review of a claimed deprivation of those rights, for his waiver extinguished any error.' " *Id.* at 215, quoting *United States v Griffin*, 84 F3d 912, 924 (CA 7, 1996).

Affirmed.

/s/ Donald S. Owens  
/s/ Kathleen Jansen  
/s/ Peter D. O'Connell