

STATE OF MICHIGAN
COURT OF APPEALS

CARLONDA NAISHE SWOOPE,

Plaintiff-Appellee,

v

CITIZENS INSURANCE COMPANY OF THE
MIDWEST,

Defendant-Appellant.

UNPUBLISHED

June 18, 2026

9:48 AM

No. 364924

Wayne Circuit Court

LC No. 21-011402-NF

ON REMAND

Before: LETICA, P.J., and O’BRIEN and CAMERON, JJ.

PER CURIAM.

This case, arising under Michigan’s no-fault act, MCL 500.3101 *et seq.*, returns to us on remand from our Supreme Court, having reversed our decision in *Swoope v Citizens Ins Co of the Midwest*, 350 Mich App 104; 29 NW3d 695 (2023) (*Swoope I*), and remanded to this Court to “address the alternative ground for summary disposition raised by defendant regarding how plaintiff’s taking of the vehicle was unlawful.” *Swoope v Citizens Ins Co of the Midwest*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 166790); slip op at 18 (*Swoope II*). We reverse and remand for further proceedings consistent with this opinion.

I. FACTUAL AND PROCEDURAL BACKGROUND

In October 2020, plaintiff, who was staying at her friend’s, Kandice Valentine’s, house, received a telephone call from her mother. Plaintiff’s mother reported that her chest hurt and “the ambulance wasn’t coming fast enough.” As a result, plaintiff, without obtaining Valentine’s consent or permission, took Valentine’s keys and vehicle to go to her mother’s home. Plaintiff had never driven Valentine’s vehicle before and did not have a valid driver’s license. On the way, plaintiff was involved in a motor vehicle accident. Plaintiff applied for personal protection insurance (PIP) benefits through the Michigan Assigned Claims Plan (MACP) for her injuries, and her claim was assigned to defendant. After defendant denied coverage, plaintiff filed suit. Defendant then moved for summary disposition under MCR 2.116(C)(8) (claim fails as a matter

of law) and (C)(10) (no genuine issue of material fact), arguing plaintiff's claim was barred by MCL 500.3113(a). The trial court denied the motion, and this Court granted defendant's application for leave to appeal.¹

In our prior opinion, this Court held that plaintiff was barred from recovering PIP benefits under MCL 500.3113(a) because there was no genuine issue of material fact that plaintiff was unlawfully operating Valentine's vehicle without a license. *Swoope I*, 350 Mich App at 109-112. Our Supreme Court reversed, noting that the focus of the analysis was whether the vehicle was "taken unlawfully," not whether it was "operated unlawfully." *Swoope II*, ___ Mich at ___; slip op at 14. Accordingly, the Court reversed this Court's holding with respect to plaintiff's unlawful use of the vehicle and remanded the case for this Court to address the alternative argument regarding whether plaintiff's taking of the vehicle was unlawful.

II. STANDARDS OF REVIEW

We review a trial court's ruling on a motion for summary disposition de novo. *El-Khalil v Oakwood Healthcare, Inc*, 504 Mich 152, 159; 934 NW2d 665 (2019). "A motion under MCR 2.116(C)(10) . . . tests the factual sufficiency of a claim." *Id.* at 160 (emphasis omitted).² "When considering such a motion, a trial court must consider all evidence submitted by the parties in the light most favorable to the party opposing the motion." *Id.* "A motion under MCR 2.116(C)(10) may only be granted when there is no genuine issue of material fact." *Id.* "A genuine issue of material fact exists when the record leaves open an issue upon which reasonable minds might differ." *Id.* (quotation marks and citation omitted). Issues of statutory interpretation are questions of law that we also review de novo. *American Civil Liberties Union of Mich v Calhoun Co Sheriff's Office*, 509 Mich 1, 8; 983 NW2d 300 (2022).

III. ANALYSIS

Defendant's alternative argument in support of summary disposition is that plaintiff was barred from recovering PIP benefits because she took Valentine's vehicle without permission. We agree.

Relevant to this appeal, the current version of MCL 500.3113(a) provides:

A person is not entitled to be paid personal protection insurance benefits for accidental bodily injury if at the time of the accident any of the following circumstances existed:

¹ *Swoope v Citizens Ins Co of the Midwest*, unpublished order of the Court of Appeals, entered March 24, 2023 (Docket No. 364924).

² Although defendant also moved for summary disposition under MCR 2.116(C)(8), it primarily relied on plaintiff's deposition testimony to support its motion. Defendant's incorporation of evidence beyond the pleadings alone necessarily means that the motion is properly considered under MCR 2.116(C)(10).

(a) The person was willingly operating or willingly using a motor vehicle or motorcycle that was taken unlawfully, and the person knew or should have known that the motor vehicle or motorcycle was taken unlawfully.

The only issue on appeal is whether plaintiff knew or should have known that Valentine's vehicle was taken unlawfully. *Id.*

Our Supreme Court distinguished the analysis needed when evaluating an unlawful taking under MCL 500.3113(a) between situations where (1) the owner had expressly prohibited such conduct and (2) there was no express prohibition. *Swoope II*, ___ Mich at ___; slip op at 9. It concluded that the proper consideration in the latter situation involved "further inquiry into the driver's intentions at the time the vehicle was taken[.]" *Id.* In this respect, a trial court "must determine whether possession of the vehicle was gain[ed] . . . contrary to Michigan law." *Id.* at ___; slip op at 14, quoting *Spectrum Health Hosps v Farm Bureau Mut Ins Co of Mich*, 492 Mich 503, 517; 821 NW2d 117 (2012) (brackets and ellipses in *Swoope II*). The phrase "'taken unlawfully' applies to anyone who takes a vehicle without the owner's authority and . . . the legality of the taking is examined from the perspective of the vehicle's driver at the time of the accident." *Id.* at ___; slip op at 11.

During her deposition, plaintiff testified about why she took Valentine's vehicle. Plaintiff explained that, after her mother called, she did not ask Valentine for permission to use her vehicle; instead, plaintiff "just got the car because [she] had a family emergency." Plaintiff further confirmed that she had never used Valentine's vehicle before and that she "had no permission to operate [the] vehicle at the time that [she was] operating it[.]" Accordingly, plaintiff's testimony established that she intended to take Valentine's vehicle despite not receiving permission, and, in fact, did so. Thus, there was no question of fact that plaintiff had knowingly taken Valentine's vehicle without permission under MCL 500.3113(a).

On appeal, plaintiff focuses on her friendship with Valentine and the emergent circumstances as evidence that there remained a question of fact regarding whether she "reasonably believed" that she could take Valentine's vehicle in that situation. But plaintiff's "reasonable belief" is not the standard. The prior version of MCL 500.3113(a) provided that an individual could not recover PIP benefits if they were "using a motor vehicle or motorcycle which he or she had taken unlawfully, unless the person *reasonably believed* that he or she was entitled to take and use the vehicle." (Emphasis added). But the Legislature amended this language, and the applicable standard in this case concerns whether plaintiff "knew or should have known" that the vehicle was unlawfully taken.

This language change "thus broadened the provision governing disqualification from eligibility for benefits." *Ahmed v Tokio Marine America Ins Co*, 337 Mich App 1, 10; 972 NW2d 860 (2021). As this Court explained in *Ahmed*, the Legislature removed the "safe-harbor provision" regarding an individual's reasonable belief and replaced it with "a scienter requirement under which a person is disqualified from eligibility for benefits if he or she 'knew or should have known' that taking a motor vehicle was unlawful." *Id.* at 10 n 4. Accordingly, plaintiff cannot claim that she reasonably believed she could take the vehicle given her mother's emergency. The undisputed facts of this case demonstrate that plaintiff knowingly took Valentine's vehicle without

permission. Therefore, she was barred from recovering PIP benefits under MCL 500.3113(a), and the trial court erred when it denied defendant's motion for summary disposition.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Anica Letica

/s/ Colleen A. O'Brien

/s/ Thomas C. Cameron