Circuit Court for Prince George's County
Case No. CAL22-21915

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND

No. 1835

September Term, 2023

MONTEL JOHNSON

v.

HUGO GUZMAN ORTIZ

Beachley,
Albright,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: October 4, 2024

*This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

Montel Johnson, appellant, filed a complaint for negligence in the Circuit Court for Prince George's County against Hugo Guzman Ortiz, appellee, alleging that he was injured during a motor vehicle accident for which appellee was at fault. Following a bench trial, the court found that appellee was liable for causing the accident but awarded appellant no damages. On appeal, appellant raises a single issue: whether "[g]iven the uncontroverted and incontrovertible objectively documented injuries, the trial court erred as a matter of law in awarding zero damages." For the reasons that follow, we shall affirm.

Evidence at trial established that appellee rear-ended appellant on January 14, 2022, although the speed of the impact was disputed. Appellant testified that he took a taxi to Laurel Regional Hospital after the accident. Appellant's medical records from that visit indicated that he had complained of a "mild frontal throbbing headache," "right-sided neck pain, low back pain [ ], right sided chest wall pain and bilateral knee pain." A physical exam found "mild right-sided, upper chest wall tenderness to palpation" but "no swelling/edema[,]" and "full range of motion." Appellant was discharged the same day and instructed to take Ibuprofen.

Four days later, appellant visited Maryland Physicians Associates complaining of "[p]ersisting pain in the injured areas, post-traumatic headaches, post-traumatic anxiety and sleep disturbance[.]" Appellant further indicated that due to these problems he was unable to work, perform domestic duties, or play sports. A physical examination noted "bruises on the shins" and a "laceration on the right trapezius muscle." Following this visit appellant was referred to a physical therapist, and he participated in physical therapy until

March 4, 2022.[1] Appellant also testified that because of the accident he was unable to work at his job as a security guard. His wife also testified that his injuries prevented him from doing certain household chores including mowing the lawn.

On cross-examination, appellant was questioned about medical treatment that he had received for similar injuries the previous year which resulted from a motor vehicle accident that had occurred in April 2021. However, despite being shown his medical records and a short-term disability claim documenting those injuries, appellant repeatedly denied having been involved in the accident or receiving any treatment. Appellant was also confronted with pay stubs and a letter from his employer which indicated that he had not been working full time prior to the accident and had in fact been placed on a leave of absence from his job in November 2021. Finally, appellant was impeached with several inconsistent statements that he had made during his deposition and to medical providers, which conflicted with his trial testimony regarding the extent of his injuries.

Following closing arguments, the trial court found appellee liable for causing the accident. However, it noted that appellant's testimony was "evasive" and "inconsistent throughout" the trial, "inconsistent with the medical records[,]" and "inconsistent with [his wife's] testimony." The court further found that these inconsistencies were not the result of "legitimate memory loss" but "a deliberate attempt to evade the truth, [and] to mislead the Court" regarding the nature and extent of his injuries. The court therefore determined

[1] Appellant sought to recover damages for lost wages and for his medical treatment between January 14, 2022, and March 4, 2022. Because he was involved in another motor vehicle accident on March 4, 2022, he did not seek medical expenses incurred after that date.

that it could not "make any finding of credibility for [appellant] with regard to anything he's testified to" or "any representation that may have been made to -- a physician." Because of this, and the fact that appellant's three motor vehicle accidents "ran right into the next" the court awarded appellant zero damages for medical expenses. The court also found that appellant and his wife had not provided credible testimony to support appellant's claims for lost wages, loss of consortium, rental car reimbursement, and pain and suffering.

On appeal, appellant acknowledges that he was "impeached on several items" and does not otherwise contend that the trial court abused its discretion in making its credibility findings. He nevertheless claims that the court erred in awarding no damages because there was at least some "uncontroverted and incontrovertible objectively documented injuries," that did not depend on his credibility. Specifically, he notes that there was clear evidence of "bruising and lacerations" when he visited Maryland Physicians Associates four days after the accident.

"While a jury must accept uncontroverted evidence as a matter of law, the jury may disbelieve uncontradicted evidence." *Allstate Ins. Co. v. Miller*, 315 Md. 182, 186 (1989). "[F]or evidentiary facts and inferences to be uncontroverted or undisputed, there must be either actual or constructive acquiescence in their truth on the part of all affected parties." *Id.* (quotation marks and citation omitted) (holding that the plaintiff had established as uncontroverted the fact that he was uninsured by having produced thorough and unchallenged documentation of this fact).

In *Edsall v. Huffaker*, 159 Md. App. 337 (2004), this Court upheld a zero-damages award in a case involving a motor vehicle accident despite unchallenged expert testimony

that the plaintiff's knee injuries could have been caused by the accident at issue. We held that the evidence, although not specifically challenged, was not uncontroverted as the jury could have discounted the expert's testimony as equivocal, or because the plaintiff did not remember striking his knee in the accident, did not feel pain directly after the accident, and was heavily involved in sports prior to the accident. *Id.* at 344. In refusing to disturb the jury's verdict, we further held that the jury was permitted to come to its own conclusion regarding causation. *Id.*; *cf. Mason v. Lynch*, 151 Md. App. 17, 30 (2003) (refusing to overturn a zero-damages award as inconsistent with expert testimony from the defendant's physician that the plaintiff "sustained some injury and that some treatment was reasonable," because "the jurors were free to accept or reject all or any part of any witness's testimony or the reports of the experts").

To be sure, the report from Maryland Physicians Associates was not specifically contradicted by appellee. But appellee by no means conceded that the contents of the report were accurate or otherwise acquiesced that appellant had suffered a bruised shin or a laceration as a result of the accident. In fact, he vigorously argued that appellant had not established the existence of a compensable injury. And although the court could have reasonably inferred that the existence of those injuries was related to the accident, we are not persuaded that the medical report compelled such an inference. This is especially true given that: (1) the injuries were not observed until four days after the accident, and (2) appellant's medical records from Laurel Regional Hospital indicated that there was no swelling or edema on appellant's legs and did not document any complaints from appellant regarding a cut on his trapezius. When combined with appellant's inconsistent statements

regarding the nature of his injuries and his involvement in a prior accident, we are not persuaded that the court was required to award appellant damages as a matter of law. Consequently, we shall affirm the judgment.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.