

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A24-0502**

Michael Walker,
Appellant,

vs.

State of Minnesota Department of Corrections,
Respondent.

**Filed December 30, 2024
Affirmed in part, reversed in part and remanded
Jesson, Judge***

Washington County District Court
File No. 82-CV-23-127

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Keith Ellison, Attorney General, Anna Veit-Carter, Assistant Attorney General, St. Paul, Minnesota (for respondent)

Considered and decided by Ross, Presiding Judge; Cochran, Judge; and Jesson, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

NONPRECEDENTIAL OPINION

JESSON, Judge

Appellant Michael Walker slipped and fell when he stood up from his kiosk on the prison floor, resulting in a strain and a contusion in December 2016. Walker alleges the floor was wet and slippery and claims that respondent State of Minnesota Department of Corrections (DOC) was negligent in failing to place a “wet floor” caution sign. As a result of the fall, he describes pain, weakness, numbness, difficulty walking, and bowel and bladder issues.

Walker now appeals the district court’s decision to grant summary judgment to the DOC, arguing that he is not required to present an expert medical witness to prove the causation element of his negligence claim. Given Walker’s preexisting injuries at the time of the 2016 fall and alleged extensive injuries afterwards, expert testimony is necessary to establish causation for the injuries he claims beyond the strain and contusion he suffered for four weeks following the December 2016 fall. But because a reasonable lay juror—aided by the state’s expert witness—would be able to understand how a fall could cause a strain and contusion, we reverse in part and remand for trial on that limited issue. Accordingly, we affirm in part, reverse in part and remand.

FACTS

The following summarizes the evidence received on summary judgment, stated favorably to Walker, the nonmoving party.

Walker, who was incarcerated at the time, was sitting at a kiosk¹ on the prison floor at the Stillwater Correctional Facility in December 2016. While at the kiosk, another inmate was mopping the floor, including the area where Walker was seated. The supervising correctional officer warned the inmates of the wet floor. However, when Walker stood up from the kiosk, he slipped and fell on the floor. The correctional officer called for assistance and a wheelchair to transport Walker to health services.

Four days after the December 2016 slip and fall, Walker complained of pain radiating from his lower back to his neck, cold feet, tightness, and weakness of his paraspinous muscles². He was referred to physical therapy and provided further medical care.

Walker fell once again about a week or two later when he was going down the stairs. Walker explained to his treating physician that he fell because he lost his equilibrium, and after the fall, that “he could not feel anything from the waist down.” He additionally collapsed in his cell on January 12, 2017. He claimed that his back gave out and he could not feel anything below the waist. A correctional officer requested an ambulance and prepared Walker to be transported by EMTs to Regions Hospital. At the hospital, Walker underwent a thoracic laminectomy, a surgery to relieve pressure in the spine.³

¹ Kiosks are machines where inmates may check their email and download music onto their electronic devices.

² The paraspinous muscles run along the spinal column.

³ The treating physician noted that, among other things, an “MRI scan showed severe central spinal canal narrowing” and that a neurosurgery assessment discovered an “osteophyte causing thoracic myelopathy.” An osteophyte is defined as a “small, abnormal bony outgrowth.” *The American Heritage Dictionary of the English Language* 1248 (5th

In 2023, Walker sued the DOC, alleging that it was negligent in taking adequate safety precautions—particularly the failure to place caution signs by the recently mopped floor—that would have prevented his slip and fall. In his complaint, he acknowledged that he previously suffered from knee pain and other injuries, but asserted significant injuries after the December 2016 fall, including the 2017 surgery, ongoing inability to walk, numbness from feet to waist, and an inability to get an erection and control his urine and bowel movements, in addition to continuous pain.

Walker’s medical records from before and after the fall were obtained by DOC during discovery. These records showed an extensive history of back injuries and pain. For example, Walker suffered from lower back pain in 1988 when he fell from his lower bunk while sleeping. Then, in 1998, Walker complained of numbness in his left foot, back spasms radiating to his right side, and feeling like his back was going to “give out again.” In 2004, he was seen for back pain medication and a potential operation to remove the fifth vertebra in his back. Walker’s lower back pain continued in 2012, at which point he additionally complained of chronic knee pain that hindered his daily functioning. Around this time, Walker showed signs and symptoms consistent with chronic lower back pain and early degenerative joint disease of his lumbar spine. Then in October 2016—two months before his December fall—Walker was seen for continued chronic back pain. During this visit, it appeared that his left knee was “beginning to lose function.”

ed. 2018). Another physician at the time noted that Walker had a history of chronic neck pain, chronic low back pain, and hypertension.

Walker's medical records after the fall include those describing his 2017 surgery, addressed above, as well as a chronic condition in the middle of his spine, impairments in his bowel and bladder, a bony outgrowth and a limited range of motion in his knees, and a need for physical and occupational therapy.

Following receipt of the medical records, the DOC submitted testimony from an expert medical witness, Dr. Rick Davis. Dr. Davis is an orthopedic surgeon. Based on his review of Walker's medical history, Dr. Davis made the following conclusions: (1) that Walker suffered a strain and contusion⁴ from the December 2016 fall;⁵ (2) that Walker's January 2017 collapse was not causally related to his December 2016 fall; (3) that the first four weeks of treatment Walker received after the December 2016 fall was reasonable, necessary, and causally related to that fall, but all treatment after four weeks resulted from a personal degenerative condition unrelated to the fall; and (4) that Walker suffers from a complex spinal neurological condition that contributes to his injuries today. On the fourth conclusion, more specifically, Dr. Davis found that Walker has "significant cervical, thoracic and lumbar spondylosis resulting in neural axis compression in the cervical, thoracic and lumbar spine." This condition, he added, "was not caused, permanently aggravated, or accelerated by the December 2016 fall."

⁴ A "contusion" is defined as "[a]n injury in which the skin is not broken; a bruise." *Id.* at 400.

⁵ The expert specifically noted that Walker suffered a "lumbosacral" strain, which is a strain "relating to the lumbar vertebrae and the sacrum." *Stedman's Medical Dictionary for the Health Professions and Nursing* 991 (7th ed. 2012). A "strain" is an injury resulting from "tensile force to [the] muscle or tendon" or from "overuse or improper use." *Id.* at 1598.

The DOC moved for summary judgment. It argued that Walker's case should be dismissed because he could not establish the causation element of negligence without an expert medical witness. In response, Walker asserted expert testimony was unnecessary but listed his treating physicians as potential witnesses. He also submitted a personal affidavit outlining the extent of his injuries. The district court granted the DOC's motion for summary judgment because it determined that Walker's case involved medical factors that an ordinary layperson could not reasonably understand. Therefore, it concluded that an expert witness was required to prove causation.

Walker appeals.

DECISION

Walker asserts that summary judgment was inappropriate given that his injuries were documented in his medical records and that he can describe their evolution. We review a district court's summary judgment decision de novo by determining if a genuine issue of material fact exists and by reviewing whether the district court properly applied the law. *Riverview Muir Doran, LLC v. JADT Dev Grp., LLC*, 790 N.W.2d 167, 170 (Minn. 2010); Minn. R. Civ. P. 56.01. A material fact is one which may affect the outcome of the case. *O'Malley v. Ulland Bros.*, 549 N.W.2d 889, 892, (Minn. 1996). When considering whether there are genuine issues of material fact, we review the evidence in the light most favorable to the nonmoving party, that is, the party against whom summary judgment was granted. *Rochester City Lines, Co. v. City of Rochester*, 868 N.W.2d 655, 661 (Minn. 2015).

In a negligence case like the one before us, failure to establish a prima facie case entitles a defendant to summary judgment. *Louis v. Louis*, 636 N.W.2d 314, 318 (Minn. 2001). The elements of that prima facie case are: (1) a duty of care; (2) breach of that duty; (3) injury; and (4) the breach of that duty being the proximate cause of the injury. *Id.* The question before us involves the fourth element: causation. To establish proof of causation necessary to preclude summary judgment, a plaintiff's speculation about the cause of his injuries is insufficient. *See Abbett v. Cnty. of St. Louis*, 474 N.W.2d 431, 434 (Minn. App. 1991) ("A causal connection between the alleged negligence and the injury must be established beyond the point of speculation or conjecture."). Instead, the plaintiff must establish that the defendant's action was a "substantial factor in bringing about the injury." *Lubbers v. Anderson*, 539 N.W.2d 398, 401 (Minn. 1995). And when a dispute involves "obscure and abstruse medical factors such that the ordinary layman cannot reasonably possess well-founded knowledge of the matter and could only indulge in speculation in making a finding, there must be expert testimony." *Rygwall v. ACR Homes, Inc.*, 6 N.W.3d 416, 430 (Minn. 2024).

Here, Walker was required to present an expert witness to establish the causation element of negligence for most of his claimed damages. Outside of his immediate strain and contusion, the nature of his alleged injuries and his preexisting conditions involve complex medical factors that the ordinary layperson cannot reasonably understand without resorting to speculation. *See Gross v. Victoria Station Farms, Inc.*, 578 N.W.2d 757, 762 (Minn. 1998); *The American Heritage Dictionary of the English Language* 7 (5th ed. 2018) (defining "abstruse" as "[d]ifficult to understand").

When discerning the need for an expert witness in our de novo review, we begin with the medical records themselves, which Walker claims help establish causation. These records are replete with medical terminology that would be difficult for a layperson to decipher without expert assistance. For example, Walker’s physician notes describe a “[t]horacic myelopathy due to T10, 11,” a “T9-11 thoracic laminectomy” and a “[r]esection of T10, 11.” Walker’s MRI showed “severe central spinal canal narrowing” and a neurosurgery assessment revealed “a T-12 sensory level” and a “T10-T11 osteophyte causing thoracic myelopathy.” And in addition to Walker’s history of chronic back pain, the physician notes also describe a “[h]ydrocele of scrotum,” and “[d]yslipidemia.” These complex terms and diagnoses are the types of medical factors that are too complex for the ordinary layperson to understand without expert assistance.

More fundamentally, the medical records establish that Walker had several preexisting conditions that may well have caused most of the injuries he attributes to his fall. Walker’s back pain predated his fall by nearly 30 years and, just one month prior to his fall, Walker complained of continued chronic back and knee pain. The DOC’s expert medical witness opined that Walker suffered from a “degenerative spinal condition” that was *not* caused, aggravated, or accelerated by his December fall. The medical expert’s report notes that in 2012, Walker was evaluated for chronic back and knee pain that was severe enough to hinder daily functioning.⁶ Around this time, Walker’s symptoms showed

⁶ Walker also claims that the DOC’s expert medical witness should not be credited because he relied on factually incorrect or unsupported information and never personally examined Walker. But Walker does not point to anything in the record—other than his personal affidavit—to refute the expert witness’s findings. Walker’s assertions are not enough to

early degenerative changes in his lumbar spine. The expert noted that in 2015, Walker's treatment was reportedly not effective and he was seen again for chronic back pain. And in October 2016, he was seen for degenerative joint disease as well as left-knee problems, which included a knee that had begun to lose function. As a result, medical complexity is not introduced merely through this technical terminology. The jury would be left on its own to assess whether the ongoing injuries allegedly resulting from Walker's December 2016 fall were a result of these ongoing medical conditions or, as he contends, a wet floor without proper signage.

Our decision in *Anderson v. City of Coon Rapids* is illustrative. 491 N.W.2d 917, (Minn. App. 1992), *rev. denied* (Minn. Jan. 15, 1993). There, a group of plaintiffs working at an ice arena were exposed to nitrogen dioxide gas emanating from the Zamboni's engine exhaust and, as a result, suffered lung injuries. *Id.* at 921. A number of plaintiffs suffered from preexisting medical conditions, such as asthma, vocal strains, and persistent coughing. *Id.* And the plaintiff's expert could not attribute the alleged injuries specifically to the nitrogen dioxide exposure. *Id.* Similarly, here, Walker suffered back pain and knee trouble long before he fell in December 2016. Yet Walker claims that he now suffers from continuous pain, is numb from the waist down, is unable to get around without a wheelchair, and struggles to get an erection and control his bowel and bladder movements. Ordinary jurors cannot be expected to address, unaided, whether Walker's alleged

establish causation. *See Bernloehr v. Central Livestock Order Buying Co.*, 208 N.W.2d 753, 754 (Minn. 1973) ("Proof of a causal connection must be something more than merely consistent with the plaintiff's theory of the case.").

significant, ongoing medical issues were caused by the December 2016 fall or by these preexisting conditions.

But a reasonable lay person should have the necessary real-world understanding to recognize that a slip and fall might cause immediate back pain. Walker's own testimony regarding both the cause of the fall itself and the initial injury he suffered, buttressed by the opinion of the DOC's expert witness, is sufficient to avoid summary judgment as to whether the fall caused a strain and contusion.

In sum, it is unlikely that a lay person—absent expert testimony—could parse out how Walker's pre-fall conditions contributed (or not) to his alleged injuries beyond the immediate strain and contusion that required a short period of medical care.

To persuade us otherwise, Walker relies on *Schulz v. Feigal*, 142 N.W.2d 84, 87 (Minn. 1966), to assert that a logical inference can be made between his slip and fall and all of his subsequent injuries.⁷ In *Schulz*, the plaintiff was administered an incorrect injection during an office visit, was kept in the office for treatment and, soon after, fainted while walking to the bathroom. *Id.* The plaintiff was not required to present an expert witness because the sequence of events between the negligent act and the alleged injuries occurred within a two-hour window and the general use of tranquilizers was within the common knowledge of jurors. *Id.* at 91.

⁷ In his reply brief Walker cites an additional case to support his claim that an expert medical witness is not required to show injuries that he can describe. We are not persuaded. In *Gross*, the supreme court held that diagnosing a horse with equine lameness, particularly with a prior history, is not within the realm of common knowledge and, therefore, an *expert witness was required* to show causation. 578 N.W.2d at 762. Walker presented no expert testimony here.

Walker's case is factually distinguishable. He had preexisting conditions for decades, complex diagnoses, and alleged extensive injuries spanning years. While the Minnesota Supreme Court concluded that "the causal relation is not hidden from the lay mind by the mysteries of medical science" in *Schulz*, Walker's preexisting conditions here place causation of his extensive injuries within those "hidden" mysteries. *Id.* The only exception is the strain and contusion.

In conclusion, it is unlikely that a lay person—absent expert testimony—could properly assess how Walker's alleged post-fall, long-term conditions differ from what he would have suffered from because of his preexisting back pain, chronic knee pain or early degenerative joint disease of the lumbar spine. As a result, Walker was required to present an expert witness to establish proximate causation of his alleged injuries due to the December 2016 fall beyond the immediate strain and contusion. We remand the case to the district court to give Walker the opportunity to pursue a limited claim for damages arising from the immediate pain and treatment the fall allegedly caused him.

Affirmed in part, reversed in part and remanded.