Circuit Court for Baltimore City
Case No. 24-C-19-002528

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0094

September Term, 2020

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MARIAH COLEMAN

v.

EMANUEL TAYLOR

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Friedman,
Beachley,
Shaw Geter
JJ.

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Opinion by Shaw Geter, J.

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Filed: February 10, 2021

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This is an appeal from a judgment entered by the Circuit Court for Baltimore City granting summary judgment in favor of appellee, Emanuel Taylor. On April 26, 2019, appellant, Mariah Coleman, filed a complaint against Taylor alleging that he negligently operated his vehicle, resulting in his car colliding with a vehicle she was a passenger in. Because of the collision, Coleman suffered a fractured elbow that required surgery. The circuit court held a hearing on a motion for summary judgment filed by Taylor on February 26, 2020 and the court granted his motion. Taylor timely filed this appeal and presents the following question for our review:

1. Did the lower court err in granting appellee Taylor's Motion for Summary Judgment?

For the reasons discussed below, we vacate the judgment of the circuit court.

## BACKGROUND

On the evening of June 18, 2018, after finishing a class at the Baltimore City Community College, Mariah Coleman and Veronica Hamlet decided to drive to an Exxon gas station on Belair Road for refreshments. Hamlet was the driver of the vehicle and Coleman sat in the front passenger seat. While traveling on Belmar Avenue, Coleman attempted to make a left turn crossing both the north and southbound lanes of Belair Road. Taylor was driving north in the left-hand lane on Belair Road. Taylor's vehicle collided with the rear driver's side of the Hamlet vehicle. The two cars collided at the intersection of Belmar Avenue and Belair Road, which had no stop signs or traffic lights in either direction.

Coleman was deposed on October 24, 2019, and testified that the vehicle she was in, traveled at about five to ten miles per hour as it was "creeping to go across." She stated that both she and the driver looked to their left and to their right to ensure that the road was clear for them to cross. When asked what she saw when they approached the intersection, she stated that she "look[ed] to the left for the first time." She also stated "I seen a glare of light, but he was all the way down the road. So[,] I told her she could go. And she looked again. She looked to the left. I said, we clear, and she looked to the left, but somehow[,] he was already right there. And I said, wait, and he was already going."

Coleman stated when she told Hamlet that the road was clear she saw Taylor's car headlights "all the way down the street." Taylor's car was "like 20 cars length down the road." Coleman claims that Taylor was driving approximately "45 to 50" miles per hour and she based her assumption on the impact of the accident.

Taylor's video deposition was taken on December 23, 2019. He testified he was driving northbound when the Hamlet vehicle pulled out as though the driver "was trying to race [him] to go through." He stated he "was going straight and I was trying to hit my brakes in time, but it didn't work that way. So[,] I ended up hitting her. And I probably was going about between 30 miles per hour and 35." He stated he did not see her pulling out into the road but rather he saw her coming out. When asked the "difference between pulling out and coming out" he stated the following: "[l]ike, I saw her coming in the road already when I was coming up. So[,] it was already a little too close. Like l said, she was trying to race me to go across and I was trying to hit my brakes and it was already too late."

Taylor testified that when he initially saw the vehicle it was about a car's length away from his and that he saw the vehicle approximately 10 seconds before the accident. Based on the position of the vehicle, he stated he was only able to see the side of the vehicle and he was not sure if the lights were on. He later testified that he first saw the vehicle a quarter of a block away and he slammed his brakes to attempt to avoid the collision. In a follow-up question, he answered that he was a car's length away when he saw the other vehicle.

Taylor filed a Motion for Summary Judgment on January 15, 2020, and Coleman filed her opposition on February 3, 2020. The court held a hearing on February 26, 2020 and at its conclusion, the court concluded:

> There is no genuine dispute of a material fact that the Taylor vehicle was being driven at such an unreasonable speed that it was—that it was negligent rather as the proximate cause of this accident. This accident was caused when the decision was made by Ms. Hamlet to operate her vehicle out into Belair Road without the absolute opportunity to safely clear all vehicles northbound and southbound. But for Ms. Hamlet doing that, according to the evidence, this accident would have never occurred.
>
> The [c]ourt finds there exists no genuine dispute as to a material fact with regard to the alleged speed of the Defendant vehicle as being a cause, proximate or otherwise, of this accident. And because there is no genuine dispute of the material fact of the speed of the Defendant vehicle, the [c]ourt has no alternative, Ms. Coleman, but to grant the Defendant's summary judgment on the issue of liability. And the motion of the Defense is granted.

## STANDARD OF REVIEW

Motions for summary judgment are governed by Maryland Rule 2-501. Rule 2-501(a) states "[a]ny party may file a written motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that

the party is entitled to judgment as a matter of law." Md. Rule 2-501. When appellate courts review motions for summary judgments they "'review the record in the light most favorable to the nonmoving party and construe any reasonable inferences that may be drawn from the facts against the moving party.'" *Hill v. Cross Country Settlements, LLC*, 402 Md. 281, 294 (2007) (quoting *Myers v. Kayhoe*, 391 Md. 188, 203 (2006)). "On review of the grant of summary judgment, this Court 'must make the threshold determination as to whether a genuine dispute of material fact exists, and only where such dispute is absent will we proceed to review determinations of law.'" *Martinez v. Ross*, 245 Md. App. 581, 587, *cert. denied*, 469 Md. 656 (2020) (quoting *Johnson v. Mayor & City Council of Baltimore*, 430 Md. 368, 376 (2013)). "A 'material fact' is one which will somehow affect the outcome of the case." *Miller v. Bay City Prop. Owners Ass'n, Inc.*, 393 Md. 620, 631 (2006). "Summary judgment is not appropriate where undisputed facts are susceptible to multiple inferences." *Fraternal Order of Police Montgomery Cty. Lodge 35, Inc. v. Manger*, 175 Md. App. 476, 494 (2007). A circuit court's decision in granting or denying a Motion for Summary Judgment is reviewed *de novo*. *Iglesias v. Pentagon Title & Escrow, LLC*, 206 Md. App. 624, 657 (2012).

**DISCUSSION**

Coleman argues the court erred in granting the motion for summary judgment because there is a dispute of material fact as to when Taylor initially saw Hamlet's vehicle. She states that Taylor gave two different versions and "changed his story" about stopping at a red light. She argues Taylor did not attempt to avoid the accident when he saw Hamlet's vehicle in the middle of the road and there is a dispute of fact as to whether his

wheels were screeching. Conversely, Taylor argues in accordance with the Boulevard Rule, he was the favored driver and Hamlet pulled her vehicle onto Belair Road without ensuring "it was safe to do so."

Maryland courts have long recognized the Boulevard Rule, which has been described by the Court of Appeals as follows:

> [A] driver upon approaching a 'through highway' from an unfavored road must stop and yield the right of way to all traffic already in or which may enter the intersection during the entire time the unfavored driver encroaches upon the right of way; [and] this duty continues as long as he is in the intersection and until he becomes a part of the flow of favored travelers or successfully traverses the boulevard.

*Grady v. Brown*, 408 Md. 182, 194 (2009) (quoting *Creaser v. Owens*, 267 Md. 238, 239–40 (1972)). "[T]he Boulevard Rule requires the unfavored driver to do two things: (1) stop before entering the favored highway and (2), yield to all traffic within the intersection during the entire time the driver is either crossing the highway or is merging into the traffic." *Id.* "The purpose of the rule is to 'accelerate the flow of traffic over through highways by permitting travelers thereon to proceed within lawful speed limits without interruption.'" *Id.* (quoting *Belle Isle Cab Co. v. Pruitt*, 187 Md. 174, 179 (1946)).

> [T]he statutory obligation to yield the right of way at a stop intersection, imposed upon the unfavored driver, is not discharged by a mere stop but extends to the entire passage across the favored highway, and that the favored driver using a through highway is not required to slow down at an intersection or bring his vehicle under such control as to be able to stop, upon the assumption that an unfavored driver will fail in his duty.

*Ness v. Males*, 201 Md. 235, 239 (1953). "To be sure, the boulevard rule 'does not impose upon the unfavored driver the impossible duty of yielding to vehicles the approach of which he cannot discover by making the required stop and using care.'" *Barrett v. Nwaba*, 165

Md. App. 281, 294 (2005) (quoting S*tandard Oil Co. v. Sheppard*, 148 F.2d 363, 364 (D.C. Cir. 1945) (applying Maryland law)).

Section 21-402(a) of the Transportation Article further provides:

> If the driver of a vehicle intends to turn to the left in an intersection or into an alley or a private road or driveway, the driver shall yield the right-of-way to any other vehicle that is approaching from the opposite direction and is in the intersection or so near to it as to be an immediate danger.

A "Right-of-way" is "the right of one vehicle or pedestrian to proceed in a lawful manner on a highway in preference to another vehicle or pedestrian." Md. Code Ann., Transp. § 21-101(t).

In the case at bar, the court determined that there was no material dispute of fact regarding the speed of Taylor's vehicle at the time of the accident and that, in accordance with the Boulevard Rule, Taylor was the favored driver. However, there was clearly a dispute of facts regarding when Taylor saw Hamlet's vehicle as she attempted to make the left turn onto Belair Road.

When questioned, Coleman stated:

> Q. When you looked back to the left, how far away was the car?
>
> A. When I first looked, it was down the road, like 20 cars length down the road.
>
> Q. So when you first looked to the left, it was 20 car lengths down the road?
>
> A. Yes. We could go. It was safe to Proceed.
>
> * * *
>
> Q. So you look to your left. You immediately look to your right. You look to your left. All three of those lookings just took a couple of seconds; is that right? Or just a second?

A. Just a second because we was clear. It was no cars going straight It was no cars going down besides his car and our car that was coming out.

Q. And it was after you looked to the left the second time that you said, we're clear?

A. Yes. She could have went.

Q. And the accident happened just a second after that?

A. Yes. Like, the driver sped up to try to beat whatever light was down there or something or before he got to a light. I don't know, but it happened really fast from the time we had the chance to go.

Q. And that second or so when you were looking to your left and your right and to your left, are you able to tell me anything about how fast the other car was moving?

A. It had to be at least, like, 45; 45 to 50.

Q. Why do you say he had to be travelling between 45 and 50?

A. Because the way our car had got spinned.

In Taylor's deposition, he testified to the following:

Q. So when did you first see her headlights? How far back were you from where her car was and if you could say a good way because you probably didn't have a measuring type with you.

A. No.

Q. But if you could say, like, how many car lengths back were you when you first saw her.

A. Give me an example because I don't understand it.

Q. So a car length is, like, how long a car is and if you can think of how many cars would there be in front of you back to back to measure, about how many car lengths away were you?

A. I would say about a car length.

Q. You were just about a car length when you first saw her?

A. Yes.

Q. That was the first time you saw her at all?

A. Yes.

Q. Why didn't you see her before that?

A. Because she was already in the middle of the road. When l already saw her, she was just coming out.

Q. She was already in the middle of the road when you saw her?

A. Yes.

Taylor testified he was going "30 to 35" miles per hour. Taylor also stated that he did not see Hamlet's vehicle until 10 seconds prior to the crash. Upon seeing Hamlet's vehicle, he stated that he pressed on his brakes, but "it was already too late" and his car screeched as a result. He further testified:

Q. So it's about a block away. In relationship to the size of the block, were you half a block away when you saw her? Were you a quarter of a block? Were you a block away when you first saw her pull out? That's just what I want to know.

A. Quarter block.

Q. About a quarter of a block?

A. Quarter of a block.

Q. That's when you slammed on the brakes?

A. Yes. The tire was squeaking and I ended up hitting her.

* * *

> Q. One follow-up question for you. You said on the one hand that you were about—you were about ten car lengths away when you first saw her, but then on the other hand you said that only about a second elapsed between the time you first her and the accident happened?
>
> A. It was a car length when I seen her.
>
> Q. One car length?
>
> A. Yes.

In our view, Taylor's testimony regarding his observations immediately prior to the accident was inconsistent and constituted a dispute of material fact.[1] On the one hand, he saw the Coleman vehicle approximately one car's length away from him before the impact and he had 10 seconds to react and he also testified he saw the vehicle "a quarter of a block" away. While a driver on a favored road certainly has the right of way, "[t]he boulevard rule does not relieve the favored driver from the duty to observe that degree of ordinary care for his own safety which is imposed upon all men." *Dean v. Redmiles*, 280 Md. 137, 148 (1977).

When analyzing whether the grant of summary judgment is proper, we first determine whether there is a dispute of material facts, with all inferences being resolved against the non-moving party. "If the facts are subject to more than one inference, those inferences should be submitted to the trier of fact." *Hill v. Cross Country Settlements, LLC*, 402 Md. at 294. "[E]ven where the underlying facts are undisputed, if those facts are susceptible of more than one permissible inference, the choice between those inferences

[1] Indeed, at oral argument Taylor's counsel acknowledged that Taylor's testimony was "fatally inconsistent."

should not be made as a matter of law, but should be submitted to the trier of fact." *United Servs. Auto. Ass'n v. Riley*, 393 Md. 55, 66 (2006) (internal quotation omitted). In sum, a party is not entitled to summary judgment when "facts are susceptible to multiple inferences." *Fraternal Order of Police Montgomery Cty. Lodge 35, Inc. v. Manger*, 175 Md. App. at 494.

Viewing the record in the case at bar, we hold there were genuine disputes of material facts and several different inferences that could be drawn therefrom. Thus, the court erred in granting summary judgment.

**JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY VACATED; COSTS TO BE PAID BY APPELLEE.**