

**FIFTH DIVISION
MERCIER, C. J.,
MCFADDEN, P. J., and RICKMAN, J.**

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October 21, 2024

**NOT TO BE OFFICIALLY
REPORTED**

In the Court of Appeals of Georgia

A24A1007. CRAWFORD v. BKLYN TECH BICYCLES et al.

RICKMAN, Judge.

Kevin Lamar Crawford appeals the trial court's order granting summary judgment on his negligence claim against BKLYN Tech Bicycles and its owner, Howard Dunbar (together, "Dunbar"). For the reasons that follow, we affirm.

Summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law[.]" OCGA § 9-11-56 (c). "In response to a summary judgment motion, the non-movant may not rest on generalized allegations, but must come forward with specific facts to show that there is a genuine issue for trial."

(Citation and punctuation omitted.) *Lane v. Ken Thomas of Ga., Inc.*, 233 Ga. App. 15, 17 (2) (503 SE2d 94) (1998).

In that vein, speculation which raises merely a conjecture or possibility is not sufficient to create even an inference of fact for consideration on summary judgment. . . . [And] if there is insufficient evidence to create a genuine issue as to any essential element of a plaintiff's claim, that claim tumbles like a house of cards, and all other factual disputes are rendered immaterial.

(Citations and punctuation omitted.) *Handberry v. Manning Forestry Svcs.*, 353 Ga. App. 150, 152 (836 SE2d 545) (2019).

We review the grant or denial of summary judgment de novo, “and we view the evidence, and all reasonable conclusions and inferences drawn from it, in the light most favorable to the nonmovant.” *Kirkland v. Tamplin*, 285 Ga. App. 241, 242 (645 SE2d 653) (2007).

So viewed, the evidence shows that on May 13, 2020, Crawford took his bicycle, which he had purchased at a sporting goods store approximately a month earlier, to Dunbar's shop for a tune-up and rear derailleur replacement. Crawford picked up his bicycle from Dunbar's shop on May 19, 2020. After he picked up his bicycle from Dunbar's shop, and before July 1, 2020, Crawford rode his bicycle approximately five

times, including at least once on a “pretty tough” paved trail. On July 1, Crawford was injured while riding his bicycle. In his deposition, Crawford explained that the accident happened when he went from a sidewalk to the street, and that he remembered “just abruptly going towards the ground and seeing the front wheel rolling down the road.”

Crawford sued Dunbar, alleging that he had been “riding his bicycle in a routine and ordinary manner when the front wheel came off causing him to fall and suffer injuries.” In his complaint, Crawford asserted that Dunbar repaired his bicycle in a negligent manner, breaching his duty of “good and workmanlike repair.”

After discovery, Dunbar moved for summary judgment. Following a hearing, the trial court granted summary judgment to Dunbar. This appeal followed.

Crawford contends that the trial court erred in granting summary judgment to Dunbar. We disagree.

To prove negligence, a plaintiff must establish four elements: duty, breach of that duty, causation, and damages. *Goldstein, Garber & Salama v. J.B.*, 300 Ga. 840, 841 (1) (797 SE2d 87) (2017). “[N]egligence is not to be presumed, but is a matter for affirmative proof. And in the absence of affirmative proof of negligence, we must

presume performance of duty and freedom from negligence.” (Citations and punctuation omitted.) *Handberry*, 353 Ga. App. at 152-153 (1). “It is well established that the occurrence of an unfortunate event is not sufficient to authorize an inference of negligence.” (Citation and punctuation omitted.) *Robertson v. MARTA*, 199 Ga. App. 681, 682 (405 SE2d 745) (1991).

Negligence per se

In response to Dunbar’s motion for summary judgment, Crawford asserted that Dunbar had breached his duty to follow a regulation, 16 CFR § 1512.12 (c). 16 CFR § 1512.12 sets forth requirements for wheel hubs on bicycles.¹ 16 CFR § 1512.12 (a) provides that “[w]heels shall be secured to the bicycle frame with a positive lock device. Locking devices on threaded axles shall be tightened to the manufacturer’s specifications.” 16 CFR § 1512.12 (c) provides that “[f]ront hubs not equipped with lever-operated quick-release devices shall have a positive retention feature that shall be tested in accordance with the front hub retention test, § 1512.18 (j) (3), to assure that when the locking devices are released the wheel will not separate from the fork.” Crawford’s bicycle did not have a quick-release front wheel — it had two axle nuts.

¹ Other than sidewalk bicycles, which are defined as bicycles with a seat height of no more than 25 inches. 16 CFR § 1512.2 (b).

Relying on 16 CFR § 1512.12 (c), Crawford argued that his bicycle was required to have a positive retention feature such as a safety washer, and that Dunbar should have put safety washers on the bicycle.² 16 CFR § 1512.12 (c) does not expressly refer to safety washers. However, even assuming safety washers are a positive retention feature as that term is used in 16 CFR § 1512.12 (c), the regulations at 16 CFR § 1512 “apply only to new bicycles sold to consumers.” *Forester v. Consumer Product Safety Comm.*, 559 F2d 774, 798 (III) (K) (D.C. Cir. 1977). Consequently, Dunbar had no duty to comply with 16 CFR § 1512.12 (c) when he repaired Crawford’s bicycle.

Ordinary negligence

Crawford also asserted that Dunbar breached his duty to exercise ordinary reasonable care. Here, assuming Dunbar had a duty to exercise ordinary reasonable care, Crawford has not come forward with specific facts to show that there is a genuine issue for trial as to whether Dunbar breached that duty. See *Lane*, 233 Ga. App. at 17 (2).

At his deposition, Dunbar testified that he started working as a bicycle mechanic in 1993, had worked at a number of bicycle shops, and started his own

² Dunbar testified that there were no safety washers on Crawford’s bicycle when Crawford brought it to his shop.

business in 2013. Dunbar explained what is included in a tune-up and stated that a tune-up does not include providing a product that is not already on the bicycle. Dunbar testified that when he serviced Crawford's bicycle, he tightened the axle nuts, and that the only way the wheel could come off would be if someone loosened the nuts. According to Dunbar, bicycles do not necessarily need safety washers, and plenty of bicycles do not have them. Dunbar testified that after he installed the derailleur and did the tune-up, he test-rode the bicycle, and the test-ride confirmed that the wheels were not loose.

In response to Dunbar's motion for summary judgment, Crawford contended the record included affirmative proof of negligence including 16 CFR § 1512.12 (c), photographs of his bicycle that he maintained indicate a lock point for a safety washer, a photograph of his injury, and his own testimony that his bicycle wheel came off during ordinary use after service with Dunbar. As discussed above, Dunbar had no duty to comply with 16 CFR § 1512.12 (c). And even if the bicycle had a lock point for a safety washer, Crawford has not established that a bicycle without safety washers is unsafe or that Dunbar was negligent by not adding safety washers to the bicycle. See *Handberry*, 353 Ga. App. at 152 (speculation is insufficient to create an inference of

fact on summary judgment). Finally, evidence showing that Crawford's wheel came off and that he was injured is not sufficient to authorize an inference of negligence. See *Robertson*, 199 Ga. App. at 682 (occurrence of an unfortunate event not sufficient to authorize an inference of negligence).

Res ipsa loquitur

Crawford also presented a *res ipsa loquitur* theory of recovery.

The elements of the doctrine [of *res ipsa loquitur*] are: (1) injury of a kind which ordinarily does not occur in the absence of someone's negligence; (2) it must be caused by an agency or instrumentality within the exclusive control of the defendant; and (3) it must not have been due to any voluntary action or contribution on the part of the plaintiff.

(Citation and punctuation omitted.) *Watts & Colwell Builders v. Martin*, 313 Ga. App. 1, 5 (2) (720 SE2d 329) (2011). Here, Dunbar did not have control of Crawford's bicycle after Crawford picked it up on from Dunbar's shop, and the injury did not occur until after Crawford had ridden the bicycle numerous times after he picked it up from Dunbar's shop. Consequently, the doctrine of *res ipsa loquitur* does not apply. See *id.*

For all of these reasons, we affirm the trial court's grant of summary judgment to Dunbar.

Judgment affirmed. Mercier, C. J., and McFadden, P. J., concur.