

ORIGINAL



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COURT OF CIVIL APPEALS
STATE OF OKLAHOMA

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See Okla.Sup.Ct.R. 1.200 before citing.

SELDEN JONES
CLERK

IN THE COURT OF CIVIL APPEALS OF THE STATE OF OKLAHOMA

DIVISION IV

LINDSEY MULINIX-EWERT,

Plaintiff/Appellant,

vs.

Case No. 123,430

OKC CAR CONNECTION, LLC, an
Oklahoma domestic liability company,

Defendant/Appellee,

and

JAMES HOOPER, an individual, and
KELLEY HOOPER, an individual,

Defendants.

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APPEAL FROM THE DISTRICT COURT OF
OKLAHOMA COUNTY, OKLAHOMA

HONORABLE AMY PALUMBO, DISTRICT JUDGE

AFFIRMED

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OPINION BY GREGORY C. BLACKWELL, PRESIDING JUDGE:

Lindsey Mulinix-Ewert appeals from the trial court's grant of summary judgment in favor of OKC Car Connection. Upon review, the order granting summary judgment is affirmed.

I.

On February 16, 2023, Ms. Mulinix-Ewert was involved in a car accident. She was allegedly hit by the driver of a Nissan Sentra, who fled the scene. On January 14, 2025, Ms. Mulinix-Ewert filed suit against the alleged drivers of the Nissan, James and Kelley Hooper, and OKC Car Connection, LLC, the entity that sold the Nissan to the Hoopers in 2022. Ms. Mulinix-Ewert brought a negligence claim against all defendants, negligence per se claims against OKC Car Connection and the Hoopers separately, and a claim for intentional infliction of emotional distress against the Hoopers only.

Upon receiving notice of the pending suit, the Hoopers each sent separate letters in response to the petition, which were filed in the case. Mr. Hooper's letter states that on the day of the incident he was driving a tow truck from 8 a.m. until 5 p.m. and that he had no knowledge of the incident. Mrs. Hooper's letter provides as follows:

The only accident I have knowledge of is when my neighbor, Dawna Morecraft, took the Nissan without my knowledge. She woke me up to tell me she was so sorry that she had "borrowed" the car and had "hit a wall" and promised to fix it. Dawna confided in me that in her addiction, she was trying to find Oxy and was not making rational decisions. But she never said anything about her being in a collision with another vehicle. Unfortunately, Dawna Morecraft, has since passed away of a Fentanyl overdose on or about February 5, 2024.

ROA, Tab 3, *Kelley Hooper Letter*. Mrs. Hooper also stated that the Nissan Sentra was never tagged or put in the Hoopers' name "because it had mechanical problems and never worked properly." *Id.*

OKC Car Connection filed an answer and, shortly thereafter, a motion for summary judgment. In its motion for summary judgment, OKC Car Connection generally alleged that it could not be held liable for negligence because it was not present or involved in the accident. Additionally, OKC Car Connection argued that Ms. Mulinix-Ewert's negligence per se claim failed as a matter of law because it was based on OKC Car Connection issuing temporary tags beyond the legal limit, allowing the Hoopers to avoid obtaining title, registration, and insurance, and Oklahoma law is clear that it is the buyer's duty to procure liability insurance.

Ms. Mulinix-Ewert filed a response to the motion for summary judgment, reiterating that OKC Car Connection improperly issued multiple temporary tags in violation of 47 O.S. § 1137.3. It appears that a summary judgment hearing was held on June 17, 2025; however, a transcript of this hearing does not appear in the record. After the hearing, the court sustained OKC Car Connection's motion for summary judgment. It is from this order that Ms. Mulinix-Ewert appeals.¹

¹ Even though Ms. Mulinix-Ewert's claims against the Hoopers are still pending, the trial court certified its order for immediate appeal pursuant to 12 O.S. § 994A.

II.

The trial court's decision on summary judgment is purely legal; whether a party is entitled to judgment as a matter of law because there are no material disputed facts. *Carmichael v. Beller*, 1996 OK 48, ¶ 2, 914 P.2d 1051, 1053. Therefore, our standard of review is *de novo*. *Id.* Even if the material facts are undisputed, a motion for summary judgment must be denied if a reasonable person could reach a different inference or conclusion from the undisputed facts. *Buckner v. Gen. Motors Corp.*, 1988 OK 73, ¶ 30, 760 P.2d 803, 812. We must draw all inferences in favor of the party opposing the motion. *Davis v. Leitner*, 1989 OK 146, ¶ 9, 782 P.2d 924, 926.

III.

A.

In her petition in error, Ms. Mulinix-Ewert raises fourteen allegations of error. However, we find that most issues can be addressed by determining whether the court's grant of summary judgment in favor of OKC Car Connection on Ms. Mulinix-Ewert's claims of negligence and negligence per se was proper.

In order to succeed on her negligence claim against OKC Car Connection, Ms. Mulinix-Ewert must establish that OKC Car Connection owed her a duty. Oklahoma courts have consistently held that the threshold question in any action for negligence is the existence of a duty. *Trinity Baptist Church v. Brotherhood Mut. Ins. Services, L.L.C.*, 2014 OK 106, ¶ 21, 341 P.3d 75, 82. The existence of a legal duty is a question of law for the court and where the defendant did not owe a duty of care to the plaintiff, there can be no liability for

negligence as a matter of law. *Id.* In her petition, Ms. Mulinix-Ewert alleged that OKC Car Connection has a duty to not issue improper tags and to ensure that the vehicles it sells are ultimately titled, registered, and insured. ROA, Tab 1, *Petition*, pg. 4. However, this court has previously rejected this argument in *Blakley v. M&N Dealerships, L.L.C.*, 2016 OK CIV APP 41, ¶ 22, 376 P.3d 917, 922, *cert. denied*. (Okla. Sup. Ct. May 16, 2016). While *Blakely* is not precedential authority, we find it instructive in the present case.

In *Blakely*, an injured driver brought a negligence action against a dealership and its employees for issuing a temporary tag without obtaining proof of liability insurance from car buyer, who was liable for the accident. *Id.* ¶ 1. The trial court granted summary judgment in favor of the dealership and the injured driver appealed. *Id.* ¶ 11. In affirming the grant of summary judgment, this court held as follows:

We hold Oklahoma law imposes no statutory duty on the dealer of automobiles to ascertain that the buyer of a motor vehicle possesses the compulsory liability insurance.

Given this statutory regime requiring production of proof of compulsory liability insurance to a motor license agent as a condition to the registration of a motor vehicle for use in this state, **we cannot say a dealer of automobiles should be charged with a common law duty to require proof of compulsory liability insurance from a buyer before attaching a temporary tag to the purchased vehicle.** The owner's production of proof of compulsory liability insurance to a motor license agent is part of the statutory vehicle registration process required of the owner, **but a dealer of automobiles exercises no responsibility for registration of a vehicle sold to its buyer.** Sections 1137.1 and 1137.3 of title 47, O.S., require an automobile dealer to fix a temporary tag to a new or used vehicle "when a transaction is completed for the sale of said vehicle," and those sections do not grant an automobile dealer any authority to refuse to attach such a temporary tag on the basis of

whether the buyer has or has not obtained compulsory liability coverage on the purchased vehicle. Under these circumstances, and in our opinion, the imposition of a common law duty on the dealer of automobiles to require the buyer's production of proof of compulsory liability insurance before attaching a temporary license tag constitutes an extension of the protection of the Oklahoma compulsory liability insurance law beyond reason and common sense.

Id. ¶¶ 22-23 (emphasis supplied). *Blakely* stands for the general proposition that dealerships are not charged with a duty to require proof of insurance before attaching a temporary tag. It follows then that a dealership is also not charged with a duty to ensure that the buyer of a vehicle later obtains insurance after purchase when "a dealer of automobiles exercises no responsibility for registration of a vehicle sold to its buyer." *Id.*

Applying *Blakely* to the present case, we find that OKC Car Connection did not owe Ms. Mulinix-Ewert a duty to ensure that the Hoopers obtained title, registration, and insurance for the vehicle purchased. Because OKC Car Connection did not owe a duty of care to the plaintiff, there can be no liability for negligence as a matter of law. The court's grant of summary judgment in OKC Car Connection's favor on Ms. Mulinix-Ewert's negligence claim is affirmed.²

B.

Ms. Mulinix-Ewert contends that the court misapplied *Blakely* because the present case does not involve failure to confirm proof of insurance at the time of

² We also note that Ms. Mulinix-Ewert could not have shown that her injuries were proximately caused by OKC Car Connection's negligent disregard of its duty. If the breach of duty, as pled by the plaintiff, occurred when OKC Car Connection issued a temporary tag beyond the time frame contemplated by 47 O.S. § 1137.1, and the injuries suffered by the plaintiff were those caused by the car accident, it follows that the issuance of a temporary tag did not cause the injuries complained of.

sale; rather, it involves affirmative misconduct in, apparently, issuing subsequent temporary tags months after the transaction in violation of law. However, in her petition, Ms. Mulinix-Ewert alleged that by issuing a subsequent temporary tag, OKC Car Connection allowed the Hoopers to delay obtaining the title, registration, and insurance for the vehicle. As stated above, *Blakely* is clear that “a dealer of automobiles exercises no responsibility for registration of a vehicle sold to its buyer.” *Id.* Whether OKC Car Connection only issued the initial tag, one other temporary tag, or several temporary tags, it does not change the fact that a dealership does not have a duty to ensure the buyer obtains title and registration to or insurance for the vehicle sold. Indeed, it is easy to imagine a scenario where OKC Car Connection only issued the initial temporary tag to the Hoopers, the Hoopers continue to drive the vehicle without obtaining title, registration, and insurance, and eight months later the Hoopers are involved in the same accident. In that example, the plaintiff is in the exact same position because the temporary tags do not prevent a buyer from driving a vehicle without obtaining title, registration, and insurance. Oklahoma caselaw is clear that it is the duty of the buyer to comply with registration requirements in the state and whether one tag, two tags, or twenty tags are issued by the dealership has no impact on that duty.

C.

In her petition in error, Ms. Mulinix-Ewert also argues that the court erred in granting summary judgment in favor of OKC Car Connection when evidentiary materials revealed OKC Car Connection “was not only the dealer but also

involved in the sale as the finance company.” This argument appears to be an attempt to distinguish the present case from *Blakely*. In her response to the defendant’s motion for summary judgment, Ms. Mulinix-Ewert argued:

Further distinguishing this case from *Blakely*, OKC Car also acted as the creditor for the transaction, retaining a financial interest in the vehicle. This is referred to as a “cash and carry” in the used car industry. This dual role as dealer and lender gave OKC Car a unique and ongoing relationship with the vehicle and buyer.

ROA, Tab 6, *Plaintiff’s Response*, pg. 7. We find that OKC Car Connection’s alleged status as lender has no bearing on the claims at issue here. Additionally, the plaintiff does not explain how this “unique” relationship is contrary to law or proves an element of either of her negligence claims. “Assignments of error presented by counsel in their brief, unsupported by convincing argument or authority, will not be considered on appeal, unless it is apparent, without further research that they are well taken.” *Paris Bank of Texas v. Custer*, 1984 OK 5, ¶ 31, 681 P.2d 71, 78. Accordingly, we find that the court did not err in granting summary judgment in this regard.

D.

Next, Ms. Mulinix-Ewert contends that OKC Car Connection was negligent *per se* for its violation of 47 O.S.2022 § 1137.1. At the time of the collision, 47 O.S. § 1137.1 provided that “[t]he purchaser of every used motor vehicle ... shall obtain registration and title for the vehicle ... within thirty (30) days from the date of purchase of the same” and that “[s]uch license plate shall be valid for a period of thirty (30) days from the date of purchase.” It is undisputed that the Hoopers purchased the Nissan in June 2022. The photograph attached to Ms.

Mulinix-Ewert's response to OKC Car Connection's motion for summary judgment shows that the temporary tag on the Nissan was issued January 19, 2023. ROA, Tab 6, *Plaintiff's Response and Objection to OKC Car Connection LLC's Motion for Summary Judgment*, Exhibit C.³ Thus, according to Ms. Mulinix-Ewert, OKC Car Connection violated 47 O.S. § 1137.1 by allegedly issuing at least one temporary tag well past the thirty days contemplated by statute.

Oklahoma courts have consistently held that "the elements of negligence per se are three-fold: (1) the violation of a statute must have caused the injury, (2) the harm sustained must be of the type intended to be prevented by the statute and (3) 'the injured party must be one of the class intended to be protected by the statute.'" *Nye v. BNSF Ry. Co.*, 2018 OK 51, ¶ 27, 428 P.3d 863, 873 (quoting *Ohio Cas. Ins. Co. v. Todd*, 1991 OK 54, ¶ 9, 813 P.2d 508, 510.).

Upon review, we find that Ms. Mulinix-Ewert cannot succeed on a negligence per se claim against OKC Car Connection. In looking at the first element, for example, and taking all of the plaintiff's allegations as true, the violation of the statute is the issuance of an additional temporary tag. The injury to the plaintiff occurred when she was involved in a car accident and sustained physical injuries. Thus, we must ask: did the issuance of an additional temporary tag cause the car accident? The answer to that question is no.

³ In her petition in error, Ms. Mulinix-Ewert contends that OKC Car Connection's continued issuance of temporary tags created a dispute of material fact. However, it does not appear that OKC Car Connection disputes that it issued the additional temporary tag from January 18, 2023. Rather, OKC Car Connection maintains that Oklahoma law is clear that the duty falls on the purchaser, not the dealer, to procure title, registration, and insurance once the thirty days has expired.

Additionally, in examining the second element, we find it clear that a car wreck is not the type of harm intended to be prevented by a statute providing that a buyer must obtain the title and registration of a vehicle within thirty days. If the injury could be couched as the Hoopers' failure to obtain title, registration, and insurance, Ms. Mulinix-Ewert's claim could have merit. However, liability for an automobile accident turns on negligence causing bodily injury or property damage, not on the insurance status of the person causing the accident. See *Schlender v. Andy Jansen Co.*, 1962 OK 156, ¶ 14, 380 P.2d 523, 527 (holding that even if a defendant is careless or negligent in some manner, unless the defendant's negligence causes the complained-of injury, it is the trial court's duty to render judgment for the defendant). Accordingly, the court's grant of summary judgment in favor of OKC Car Connection on Ms. Mulinix-Ewert's negligence *per se* claim is affirmed.

E.

Ms. Mulinix-Ewert also contends that the court erred in granting summary judgment before she had an adequate opportunity to conduct discovery, contrary to District Court Rule 13(d). Oklahoma District Court Rule 13(d) provides as follows:

Should it appear from an affidavit of a party opposing the motion that for reasons stated the party cannot present evidentiary material sufficient to support the opposition, the court *may* deny the motion for summary judgment or summary disposition without prejudice or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such other order as is just. A motion filed pursuant to this paragraph shall not be deemed a consent to the exercise by the court of

jurisdiction over the party, or a waiver of the right to file a motion to dismiss the action.

Id. (emphasis supplied). While Ms. Mulnix-Ewert's counsel filed an affidavit explaining a need to conduct discovery to obtain more knowledge about OKC Car Connections' practices, the rule provides that the court *may* deny the motion for summary judgment upon the filing of such an affidavit. Absent from Rule 13 is a mandatory requirement that the court deny the motion for summary judgment. Further, as explained above, any additional information obtained regarding OKC Car Connections issuance of tags and other business practices would not be relevant to the legal argument at issue here. This proposition of error is rejected.

F.

Ms. Mulnix-Ewert finally claims that the court erred in disregarding her negligent entrustment and negligent misrepresentation theories. It appears that these claims were not pled by Ms. Mulnix-Ewert; rather, they are mentioned for the first time in her reply to OKC Car Connection's motion for summary judgment. Ms. Mulnix-Ewert could have sought leave of the court or opposing counsel to amend her petition to reflect the addition of these claims but did not do so. Additionally, without a transcript of the record, we have no way of verifying whether Ms. Mulnix raised these arguments at the summary judgment hearing, and whether the court considered them in granting OKC Car Connection's motion. Therefore, these allegations of error are not reviewable by this court. See *Chamberlin v. Chamberlin*, 1986 OK 30, ¶ 7, 720 P.2d 721, 724 ("It is the duty of the appealing party to procure a record that is sufficient to obtain the corrective relief sought.").

* * *

Upon careful review, we find that OKC Car Connection was entitled to judgment as a matter of law on Ms. Mulinix-Ewert's claims of negligence and negligence per se. The order granting summary judgment is therefore affirmed.

AFFIRMED.

BARNES, J., and HUBER, J., concur.

June 26, 2026