

NO. 23291

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

WALLACE GARTHE, Plaintiff-Appellee,

vs.

TRAVIS ARNOLD, Defendant-Appellant.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIV. NO. 98-0457-02)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

The defendant-appellant Travis Arnold appeals from the amended judgment of the first circuit court, the Honorable Sabrina S. McKenna presiding, filed on February 23, 2000. On appeal, Arnold contends that the circuit court erred in denying his motions for a directed verdict and judgment notwithstanding the verdict (JNOV) on the basis that the plaintiff-appellee Wallace Garthe failed to establish the element of causation and satisfy one of the enumerated threshold requirements set forth in Hawai'i Revised Statutes (HRS) § 431:10C-306(b) (1993), which is a condition precedent to maintaining a tort action under Hawaii's no-fault law. In addition, Arnold contends that the circuit court abused its discretion by refusing to utilize his proposed special verdict form and place before the jury the issue whether Garthe met the medical-rehabilitative limit set forth in HRS § 431:10C-308 (1993).

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that: (1) the circuit court did not err in denying Arnold's motions for a directed verdict and JNOV based upon Garthe's alleged failure to satisfy an enumerated threshold requirement, inasmuch as Garthe adduced medical expert testimony at trial that he accrued medical and rehabilitative expenses that were reasonable and necessarily related to the February 9, 1995 accident in excess of \$11,000.00, see Ho v. Leftwich, 88 Hawai'i 251, 257-59, 965 P.2d 793, 799-801 (1998); Walsh v. Chan, 80 Hawai'i 188, 192, 907 P.2d 774, 778 (App. 1995), aff'd in part and rev'd in part, 80 Hawai'i 212, 908 P.2d 1198 (1995); (2) the circuit court did not err in denying Arnold's motions for a directed verdict and JNOV based upon Garthe's alleged failure to establish the element of causation, inasmuch as reasonable minds could differ as to whether the February 9, 1995 accident caused Garthe's hand and back injuries, see Taylor-Rice v. State, 91 Hawai'i 60, 74-75, 979 P.2d 1086, 1100-01 (1999); Dzurik v. Tamura, 44 Haw. 327, 330, 359 P.2d 164, 165-66 (1960); and (3) by virtue of the circuit court having expressly ruled that Garthe had satisfied the medical-rehabilitative threshold requirement set forth in HRS § 431:10C-306(b)(2), the circuit court did not commit an abuse of discretion in declining to utilize Arnold's proposed special verdict form, see Montalvo v. Lapez, 77 Hawai'i 282, 292, 884 P.2d 345, 355 (1994). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, August 2, 2002.

On the briefs:

James T. Wong and R. Laree
McGuire for the defendant-
appellant Travis Arnold

Susan C. Yi and Kenneth T.
Okamoto (of Price, Okamoto,
Himeno & Lum) for the
plaintiff-appellee
Wallace Garthe