

Supreme Court Provides Guidance on Relevant Inquiry for “Unlawful Taking” of Motor Vehicles Pursuant to MCL 500.3113(a)

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In *Swoope*, the Plaintiff lacked a valid driver’s license and required motor vehicle insurance at the time she was involved in a motor vehicle accident. *Swoope*, slip op. 2-3. In responding to a family member’s medical emergency, the Plaintiff had taken her friend’s car, allegedly without permission. *Id.* While en route to her family member’s location, Plaintiff was involved in an accident and as a result, sustained injuries. The Plaintiff later applied for PIP benefits through the Assigned Claims Plan (“MACP”). *Id.*, slip op. 3.

The MACP insurer, Citizens, denied coverage based on MCL 500.3113(a), claiming that the vehicle Plaintiff was operating was taken unlawfully and without reasonable belief that she had permission to drive her friend’s vehicle. *Id.*, slip op. 3-4. Suit was filed and Citizens moved for summary disposition on this theory. *Id.*, slip op. 4. The trial court disagreed with Citizens’ reliance on §3113(a), and Citizens appealed. The Court of Appeals reversed and held that Citizens was entitled to summary disposition pursuant to § 3113(a). However, the Court of Appeals analyzed the case under an unlawful *operation* lens, rather than unlawful *taking* of the vehicle. *Swoope v Citizens Ins Co of the Midwest*, 350 Mich App 104, 110 (2023), rev’d No. 166790, 2026 WL 681218 (Mich, March 10, 2026). Because the Plaintiff lacked a valid driver’s license and permission from the owner to use the vehicle, it determined Plaintiff’s use fell within § 3113(a) and its preclusion of PIP benefits applied.

The Supreme Court reversed the Court of Appeals, and revived Plaintiff’s first-party PIP claim. Critically, the Supreme Court analyzed § 3113(a)’s statutory provisions, prior case law, and

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In *Swoope v Citizens Ins Co*, the Michigan Supreme Court distilled MCL 500.3113(a)’s rule that bars eligibility for PIP benefits where a vehicle in use was “taken unlawfully,” to limit its application to only where the *taking* of the vehicle was *unlawful*, as opposed to potential unlawful *use* of the vehicle itself. The Court’s interpretation of § 3113(a), while limiting the reach of the statute’s bar for recovery of PIP benefits in certain situations, appears consistent with both canons of statutory construction and prior decisions from the Court of Appeals. With clarification by the Supreme Court, the “unlawful taking” defense to PIP claims will rest on “how possession of the vehicle that was involved in the accident was gained” and whether that act was unlawful. *Swoope v Citizens*, slip op. at 12.

In *Swoope*, because the claimant’s possession of the vehicle was not unlawful, but rather her alleged *use* of it was (i.e., operating without a valid driver’s license or requisite insurance), the Supreme Court reversed the Court of Appeals’ decision that she was precluded from recovering PIP benefits, thereby reviving Plaintiff’s claim for first-party recovery. *Swoope*, slip op. 17. With this decision, the Court handed insurers and insureds alike what appears to be a limited application of §3113(a)’s bar.

provided guidance on the statute’s reach. Pursuant to the Supreme Court’s opinion, a proper analysis as to whether § 3113(a) bars a PIP claim focuses on “whether, at the time of the accident, the vehicle was ‘taken unlawfully.’” *Swoope*, slip op. 14. The center of this inquiry is whether possession, not use, was obtained unlawfully. *Id.* (quoting *Spectrum Health Hosp v Farm Bureau Mut Ins Co of Mich*, 492 Mich 503, 517 (2012)). Writing for the Court, Justice Bolden explained that this inquiry involves *how* possession of the vehicle was gained, thus separate and distinct from whether the vehicle was *used* unlawfully. *Swoope*, slip op. 15. Because the Legislature used the term “taken” as opposed to “operate” in conjunction with “unlawful,” the Court could not interpret the statute to apply to unlawful operation. *Id.*, slip op. 15-16. Thus, the mere fact that Plaintiff was unlicensed and uninsured while *using* her friend’s vehicle did not render Plaintiff’s *possession* of the vehicle unlawful. *Id.*, slip op. 16-17.

Accordingly, MCL 500.3113(a) depends on how one obtains *possession* of the vehicle, not how one *uses* the vehicle. If possession is unlawfully obtained, § 3113(a) may be a bar to recovery. However, mere unlawful *use* may render this statutory provision inapplicable. Decisions such as this provide litigants and insurers with guidance as to how § 3113(a) applies to certain factual situations and whether claims warrant approval or denial. The critical inquiry that *Swoope* leads to is “whether the vehicle was *taken* unlawfully,” which the Court expressed is a separate inquiry as to one’s possession or use of the vehicle. *Swoope*, slip op. at 16.

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