

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0110

September Term, 2025

MICHAEL A. OWENS, JR.

v.

ZACHARY MURDOCK

Ripken,
Tang,
Zarnoch, Robert A.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: April 10, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

In June of 2023, Michael A. Owens (“Owens”), appellant, was riding his bicycle, and Zachary Murdock (“Murdock”), appellee, was operating his vehicle when, at an intersection in Washington County, Murdock’s car collided with Owens’ bicycle, resulting in injuries to Owens’ head and back. Owens subsequently filed suit against Murdock¹ in the Circuit Court for Washington County, claiming that Murdock’s negligence proximately caused Owens’ injuries without contributory negligence.

Murdock moved for summary judgment, alleging that Owens was contributorily negligent because he was biking on the left side of the street, against traffic, at the time of the accident. Owens opposed Murdock’s motion and filed a countermotion for partial summary judgment, claiming that the Boulevard Rule favored him in the analysis of the accident and thus only Murdock should be held responsible for the collision. A hearing on the motions was conducted in March of 2025.

At the hearing, both parties presented argument, and, upon consideration, the court found in favor of Murdock—granting his motion for summary judgment and denying that of Owens—because Owens was contributorily negligent as a matter of law. In so finding, the court denied Owens’ countermotion for partial summary judgment. Owens noted this timely appeal, presenting the following issue for our review:²

¹ In an Amended Complaint, Owens later replaced his name with that of Latera Owens, as “parent [and] next friend of [Owens,]” because he was a minor at the time of the accident.

² Rephrased and consolidated from:

- I. Whether the trial court erred in granting Murdock’s Motion for Summary Judgment by ruling, as matter of law, that [Owens] was

Whether the circuit court erred in granting Murdock’s motion for summary judgment.

For the reasons to follow, we reverse the order granting summary judgment and remand the case to the circuit court for further proceedings consistent with this opinion.

FACTUAL AND PROCEDURAL BACKGROUND

The Collision

The following facts were adduced from the record of the motions hearing. On June 15, 2023, Owens was riding his bicycle traveling westbound in the shoulder of the eastbound lane of Mt. Aetna Road. At the same time, Murdock was driving his 2017 Chevy Volt northbound on Maplewood Drive, approaching the perpendicular intersection of Mt. Aetna Road and Maplewood Drive.

According to Murdock, he stopped at the stop sign located at the intersection in order to wait for oncoming traffic to clear before turning right. He claims that he looked but did not see Owens approaching westbound in the eastbound lane to his right.³

Owens contends that as he approached the intersection on his bicycle, he saw

contributorily negligent, despite disputed material facts regarding the circumstances of the collision?

- II. Whether the issue of contributory negligence, particularly where reasonable minds could differ as to [Owens’] actions and [Murdock’s] alleged failure to yield under Maryland’s Boulevard Rule, is properly a question for the trier of fact rather than for resolution on summary judgment?

³ Murdock opined in his deposition that he did not see Owens approaching, despite having looked to his right before turning on Mt. Aetna Road, because the car frame on his front window created a blind spot. Per Murdock, Owens was “just in the right place at the right time, [and] moving at the right speed” such that the frame obstructed his view of Owens.

Murdock’s car stop at the intersection with the right turn signal on. Owens indicates that he slowed down before attempting to cross the intersection in front of Murdock’s stopped vehicle, when Murdock then turned right and collided with Owens—causing Owens to “fall violently” onto the asphalt road.

Legal Proceedings

In June of 2024, in light of his injuries from the collision, Owens filed suit in the Circuit Court for Washington County against Murdock for negligence. Per Owens, his injuries were “solely [] a direct result” of Murdock’s “negligence, carelessness, and recklessness[.]” In particular, Owens claimed that Murdock breached his duty of care by:

- a. [f]ailing to grant the right of way;
- b. [f]ailing to keep his vehicle under proper control;
- c. [f]ailing to keep a lookout for other vehicles and pedestrians lawfully on the streets aforesaid; [and]
- d. [f]ailing to maintain a proper distance[.]⁴

Owens further alleged that Murdock’s negligence caused his injuries and damages, with no contributory negligence on the part of Owens.

Murdock denied liability for the accident and asserted the affirmative defenses of contributory negligence, assumption of risk, and the statute of limitations. Murdock additionally moved for summary judgment, claiming that Owens failed to establish that Murdock was negligent and that Owens was otherwise barred from recovery because he was contributorily negligent as a matter of law under Maryland Code, Transportation

⁴ Owens also alleged that Murdock was otherwise negligent, reckless, and careless in respects not presently known to him.

(“Transp.”) section 21-1205.⁵ Owens opposed Murdock’s motion and filed a countermotion for partial summary judgment on the issue of Murdock’s negligence pursuant to Maryland Rule 2-501(a).⁶

The circuit court conducted a hearing on the motions on March 11, 2025. At the hearing, both parties presented argument. Subsequently, the court, having reviewed the briefs and record, issued a ruling from the bench.

The court found that, as a matter of law, no exceptions to Transp. section 21-1205(a) were applicable. The court further noted that Murdock looked both ways before initiating the right-hand turn, however did not see Owens, and Owens saw Murdock stopped at the intersection and proceeded in front of him, traveling westbound in the eastbound lane.

⁵ Transp. § 21-1205(a) (1977, 2020 Repl. Vol.) requires that:

Each person operating a bicycle or a motor scooter at a speed less than the speed of traffic at the time and place and under the conditions then existing on a roadway shall ride as near to the right side of the roadway as practicable and safe, except when:

- (1) Making or attempting to make a left turn;
- (2) Operating on a one-way street;
- (3) Passing a stopped or slower moving vehicle;
- (4) Avoiding pedestrians or road hazards;
- (5) The right lane is a right turn only lane; or
- (6) Operating in a lane that is too narrow for a bicycle or motor scooter and another vehicle to travel safely side by side within the lane.

⁶ Under Maryland Rule 2-501(a):

[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.

Thus, the court concluded that the facts differed from those in *Absolon v. Dollahite*, 376 Md. 547 (2003), insomuch as the undisputed facts here could be resolved on summary judgment. In *Absolon*, a vehicle struck a pedestrian who was stepping unlawfully into the roadway and the court held that even an undisputed finding that the pedestrian was walking unlawfully was insufficient to hold the pedestrian contributorily negligent as a matter of law without further fact findings regarding causation. *See id.* Specifically, the trial court found *Absolon* inapposite because both parties *sub judice* were operating vehicles,⁷ as compared to either party being a pedestrian “which naturally generate[d] more of a subjective decision . . . rightfully the province of the trier-of-fact[.]” Therefore, where, as here, both parties were operating vehicles and Owens was operating his vehicle unlawfully, Owens contributed negligently to the accident as a matter of law. In so finding, the court granted Murdock’s motion for summary judgment and denied that of Owens.

Owens noted this timely appeal. Additional facts are included below as relevant.

DISCUSSION

THE CIRCUIT COURT ERRED IN GRANTING MURDOCK’S MOTION FOR SUMMARY JUDGMENT.

A. Party Contentions

Owens contends that the circuit court erred in granting Murdock’s motion for summary judgment because there remained genuine disputes of material fact as to

⁷ Under Maryland law, a bicycle is a vehicle and “[e]very person operating a bicycle or a motor scooter in a public bicycle area has all the rights granted to and is subject to all the duties required of the driver of a vehicle by this title,” except in limited scenarios unapplicable here. *See* Transp. § 21-1202(a); Transp. § 11-104(1).

proximate causation regarding Owens’ statutory violation and Owens’ contended favored status under the Boulevard Rule.

Murdock avers that the circuit court did not err because the undisputed facts demonstrate that Owens was contributorily negligent. Murdock posits that Owens’ statutory violation, although not negligence *per se*, was the proximate cause of the accident as a matter of law; hence, Owens was undisputedly negligent. Finally, Murdock also asserts that the Boulevard Rule does not favor Owens because he was not operating his vehicle lawfully at the time of the accident, nor did he present any evidence to justify his location on the road under the statute. Thus, per Murdock, the Boulevard Rule does not protect Owens from liability.⁸

B. Standard of Review

We review a grant of summary judgment without deference, independently reviewing the record “to determine whether a genuine dispute of material fact exists and whether the moving party is entitled to judgment as a matter of law.” *Md. Cas. Co. v. Blackstone Int’l Ltd.*, 442 Md. 685, 694 (2015). In doing so, we are confined to the summary judgment record and “review only the grounds upon which the trial court relied in granting summary judgment.” *Walton v. Premier Soccer Club, Inc.*, 490 Md. 204, 218 (2024) (*quoting SVF Riva Annapolis LLC v. Gilroy*, 459 Md. 632, 654 (2018)) (further citation omitted).

⁸ Murdock additionally contends that the record is devoid of any evidence that he was negligent. Because this appeal turns on Owens’ contributory negligence, which negates liability for any purported primary negligence on behalf of Murdock, we need not address this contention.

C. Analysis

i. *Motions for Summary Judgment and Contributory Negligence*

A trial court can grant summary judgment only “if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law.” See Maryland Rule 2-501(e); see also *Absolon*, 376 Md. at 552 (citations omitted); *L & H Enters., Inc. v. Allied Bldg. Prods. Corp.*, 88 Md. App. 642, 645–46 (1991) (citations omitted). “A genuine issue of material fact is a factual dispute that is real and not imagined.” *Hams of S. Md. v. Nationwide Mut. Ins. Co.*, 148 Md. App. 534, 539 (2002) (quoting *Schmerling v. Injured Workers’ Ins. Fund*, 139 Md. App. 470, 483 (2001), *rev’d on other grounds*, 368 Md. 434 (2002)).

“A material fact is one that would ‘affect the outcome of the case.’” *Id.* (quoting *King v. Bankerd*, 303 Md. 98, 111 (1985)). Immaterial facts cannot defeat summary judgment, and “[n]either general allegations of facts in dispute nor a mere scintilla of evidence will suffice to support the non-movant’s position; there must be evidence upon which the jury could reasonably find for the moving party.” *Fearnow v. Chesapeake & Potomac Tel. Co.*, 104 Md. App. 1, 49 (1995), *aff’d in part, rev’d in part*, 342 Md. 363 (1996) (citations omitted).

On appeal, “we ‘must review the facts, and inferences therefrom, in the light most favorable’ to the non-moving party.” *Hams of S. Md.*, 148 Md. App. at 539 (quoting *Lovelace v. Anderson*, 366 Md. 690, 695 (2001)). “Evidentiary matters, credibility issues,

and material facts which are in dispute cannot properly be disposed of by summary judgment.” *Id.* (quoting *Underwood-Gary v. Mathews*, 366 Md. 660, 685 (2001)).

In this case, Murdock’s motion for summary judgment was granted on the basis that Owens was contributorily negligent, and that negligence was dispositive in the case brought against Murdock. Thus, we review whether the circuit court erred in finding no dispute as to material facts regarding Owens’ contributory negligence.

Contributory negligence is “the failure to observe ordinary care for one’s own safety.” *Menish v. Polinger Co.*, 277 Md. 553, 559 (1976). As with all claims of negligence, a party asserting a defense of contributory negligence must prove that the plaintiff owed a duty to the opposing party, breached that duty, that breach legally caused the harm suffered, and said harm created cognizable damages. *Walton*, 490 Md. at 219, 221. If a defendant succeeds in proving contributory negligence on the part of the plaintiff, the defendant cannot be held liable for his own primary negligence. *See Wooldridge v. Price*, 184 Md. App. 451, 461 (2009) (citing *May v. Giant Food, Inc.*, 122 Md. App. 364, 375 (1998)); *Richards v. Goff*, 26 Md. App. 344, 356–57 (1975).

In the context of summary judgment, when contributory negligence is raised it must be proven as a matter of law—there must be no genuine dispute of material fact as to its establishment. *Menish*, 277 Md. at 563 (citations omitted). For that reason, “[w]here there is a conflict of evidence as to material facts relied on to establish contributory negligence, or more than one inference may be reasonably drawn therefrom, the question should be submitted to the jury.” *Id.* To succeed on contributory negligence by way of summary judgment, “the evidence must show some prominent and decisive act which directly

contributed to the accident and which was of such a character as to leave no room for difference of opinion thereon by reasonable minds.” *Id.* (further citation omitted).

ii. Application

The circuit court ruled that Owens’ failure to operate his bicycle on the correct side of the road constituted a breach of a statutory duty owed to himself and others, and in so breaching, he contributed negligently to the accident as a matter of law. Thus, we likewise focus our analysis on whether Owens’ statutory violation constituted a *prima facie* case of negligence.⁹

A statute can prescribe a duty. Violation of a statutorily prescribed duty is evidence of negligence. *Kiriakos v. Philips*, 448 Md. 440, 457 (2016) (citations omitted). However,

⁹ Both parties additionally argue opposite applications of the Boulevard Rule in this case. Regardless, the circuit court did not make findings on the Boulevard Rule. Thus, we mention it only briefly for guidance.

The Boulevard Rule “arises from the historical statutory mandate that a driver at an intersection who is required to stop before entering the intersection (called the ‘unfavored driver’) must yield the right-of-way to a driver not required to stop before entering (called the ‘favored driver’).” *Mallard v. Earl*, 106 Md. App. 449, 456–57 (1995) (citations omitted). The Rule has developed further since 1971, when the legislature modified the definition of “right-of-way,” and now no longer affords absolute protection to the favored driver if that driver is driving unlawfully. *Id.* at 457 (citation omitted). Even so, the unfavored driver remains liable if the favored driver’s unlawful conduct was not the proximate cause of the collision. *Id.* (citation omitted). As discussed *supra*, the material facts here are disputed as to proximate cause, specifically regarding Owens’ unlawful driving, and it is likely a question for the jury. *Menish*, 277 Md. at 563.

such a violation in itself is not negligence *per se*.^{10,11} *Id.* To prove a *prima facie* case of negligence based on a violation of a statute, the plaintiff must satisfy two steps: 1) “present evidence that the defendant violated a statute designed to protect a specific class of persons that includes the plaintiff[,]” and 2) “present evidence that the violation of the statute proximately caused the plaintiff’s injury.” *Walton*, 490 Md. at 212. *See also Kiriakos*, 448 Md. at 457–64. The first step aligns with the breach and duty elements of negligence, and the second step aligns with the causation and damages elements. *Walton*, 490 Md. at 221–22. To succeed in summary judgment, no reasonable minds may differ as to whether both steps are satisfied. *Menish*, 277 Md. at 564; *Campfield v. Crowther*, 252 Md. 88, 92–93 (1969).

Here, as to the first step, it is undisputed that Owens was traveling westbound in the eastbound lane on Mt. Aetna Road. Meanwhile, Transp. section 21-1205 requires “[e]ach person operating a bicycle or a motor scooter at a speed less than the speed of traffic at the time and place and under the conditions then existing on a roadway shall ride as near to the right side of the roadway as practicable and safe[.]” There were no facts presented regarding any conditions that suggested the eastbound lane was the location “as near to the right side of the roadway as practicable and safe.” Additionally, Transp. section 21-1205

¹⁰ An exception to this rule, inapplicable here, arises where “the statute itself explains that a violation thereof is negligence *per se*[.]” *Kiriakos*, 448 Md. at 457 n.24 (citing *Blackburn Ltd. P’ship v. Paul*, 438 Md. 100, 126 (2014)).

¹¹ Thus, we agree with both Murdock and Owens that negligence *per se* is inapplicable here, but that does not end our analysis. Instead, we also look at whether the undisputed facts lend themselves to negligence as a matter of law, as discussed *supra*.

is designed to protect fellow drivers, passengers, and pedestrians traveling on roadways. *See e.g., Longie v. Exline*, 659 F. Supp. 177, 182 (D. Md. 1987) (“The reason for requiring right-hand bicycle operation is to have these machines go with, not against, the flow of vehicular traffic.”) That class undisputedly included Murdock at the time of the accident. Because, even taking the facts in the light most favorable to Owens, *Hams of S. Md.*, 148 Md. App. at 539, there are no facts excusing Owens from driving on the left side of the roadway and the statute was designed to protect fellow drivers, the first step of the analysis is satisfied as a matter of law.

Turning to the second step, Murdock was required to prove that reasonable minds could not differ on whether Owens’ violation of Transp. section 21-1205 proximately caused the accident. *See Myers v. Bright*, 327 Md. 395, 407–08 (1992) (“Negligence that does nothing to cause a mishap cannot create accountability.”). Causation is satisfied where there is causation-in-fact and “the injuries [are] a foreseeable result of the negligent conduct.” *Walton*, 490 Md. at 220–21. Causation-in-fact is the threshold inquiry of whether the conduct at issue actually produced an injury. *Id.* at 220. Proximate cause “involves a conclusion that someone will be held legally responsible for the consequences of an act or omission.” *Pittway Corp. v. Collins*, 409 Md. 218, 243 (2009) (quoting *Peterson v. Underwood*, 258 Md. 9, 16 (1970)). Where two or more independent negligent acts bring about an injury, we apply the substantial factor test for causation-in-fact, which dictates that the element is satisfied if “it is more likely than not that [one party’s] conduct was a substantial factor in producing the [other party’s] injuries.” *Id.* at 244 (internal citation and quotation marks omitted). As to foreseeability, the final step of the causation analysis, the

proponent must show that the injury “falls within a general field of danger that the actor *should have anticipated or expected.*” *Walton*, 490 Md. at 221 (emphasis in original) (internal citation omitted); *accord Collins*, 409 Md. at 245.

Here, Murdock looked to the right as he approached the stop sign and looked left once he was stopped at the intersection, never seeing Owens’ approach on his right side. Owens avers that he slowed down before attempting to cross in front of Murdock, having seen him stop at the intersection. Murdock then continued in front of Owens, after which the collision occurred.

On these facts, reviewed in the light most favorable to Owens, *Hams of S. Md.*, 148 Md. App. at 539, reasonable minds could differ as to whether Owens’ location on the incorrect side of the street was a substantial factor in the collision, given the possibility that Murdock’s timing in looking to his right could also have been a factor. In addition, it is likewise possible that either party’s actions could have fallen under the “last clear chance” doctrine.¹² These disputed determinations are relevant to both steps of the causation

¹² Owens argued in his Opposition to Murdock’s Motion for Summary Judgment that the Boulevard Rule holds unfavored drivers liable where they fail to yield to the right of way “unless the doctrine of last clear chance is involved.” The doctrine of “last clear chance” has been applied in Maryland for over 150 years, remaining relatively unchanged during that time. *Nationwide Mut. Ins. Co. v. Anderson*, 160 Md. App. 348, 356 (2004). This legal framework “permits a contributorily negligent plaintiff to recover damages from a negligent defendant if each of the following elements is satisfied: (i) the defendant is negligent; (ii) the plaintiff is contributorily negligent; and (iii) the plaintiff makes a showing of something new or sequential, which affords the defendant a fresh opportunity (of which he fails to avail himself) to avert the consequences of his original negligence.” *Carter v. Senate Masonry, Inc.*, 156 Md. App. 162, 168 (2004) (quoting *Burdette v. Rockville Crane Rental, Inc.*, 130 Md. App. 193, 216 (2000) (internal quotation marks omitted)).

analysis; thus, the circuit court overstepped into the province of the jury by ruling that, because the collision was between two legal vehicles, no issue of fact was generated as to causation found as in *Absolon*. Therefore, the issue could not be properly determined by way of summary judgment.

Further, the existence of factual disputes is not rooted in the identity of the parties on the road—whether pedestrian, biker, or driver—as suggested by the circuit court. Rather, the court’s determination of a motion for summary judgment based on statutory contributory negligence depends on the specific facts of the incident creating the injury and the purpose of the statute that was violated. *See Whitt v. Dynan*, 20 Md. App. 148, 161–63 (1974) (permitting the case to go the jury because reasonable minds could differ as to whether a pedestrian walking unlawfully on the wrong side of the road was the proximate cause of the injury where the violated statute did not determine the relative rights of pedestrians and motor vehicles); *Myers*, 327 Md. at 407–08 (affirming the grant of judgment as a matter of law on the issue of contributory negligence because reasonable minds could not differ as to whether the driver’s speed, which was alleged to have exceeded the posted speed limit, proximately caused the resulting vehicle collision).

We do find that *Absolon* is applicable here, as the *Absolon* court relied on case law regarding vehicle-on-vehicle collisions in determining that the pedestrian’s contributory negligence in a vehicle-on-pedestrian collision was a question for the jury. *See, e.g.*, 376 Md. at 555–57 (citing *McLhinney v. Lansdell Corp. of Md.*, 254 Md. 7, 14 (1969) (collision between tractor trailer and firetruck); *Liberto v. Holdfeldt*, 221 Md. 62, 65 (1959) (collision between two automobiles); *Miles v. Webb*, 162 Md. 269, 272 (1932) (collision between an

automobile and a truck)). The *Absolon* court held that “[a] violation of [a] statute alone is not sufficient to establish an absolute duty so as to satisfy the requirement of Maryland Rule 2-501(e) for a grant of summary judgment[.]” *Id.* at 557. The court in *Absolon* applied that rule without reference to the appellant’s status as a pedestrian during the incident. Instead, the *Absolon* court focused on the longstanding general proposition in Maryland that “[m]andatory language in [a] statute is not sufficient to abrogate the rule that a violation of statutory duty is merely evidence of negligence” still requiring undisputed facts as to causation to be determined as a matter of law. *Id.* at 554. The same analysis is applicable here.

**JUDGMENT OF THE CIRCUIT
COURT FOR WASHINGTON
COUNTY REVERSED. COSTS TO
BE PAID BY APPELLEE.**