

**FOURTH DIVISION
MCFADDEN, P. J.,
WATKINS and PADGETT, JJ.**

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September 3, 2026

In the Court of Appeals of Georgia

A26A1041. CASTLEBERRY et al. v. STEIB et al.

MCFADDEN, Presiding Judge.

Brennon Steib was driving a dump truck owned by his company, BJN Trucking, LLC, when he drove into the back of a car driven by Alecia Castleberry. Castleberry and her husband filed this lawsuit against Steib and BJN, seeking damages for her injuries and her husband's loss of consortium. The case went to trial, and the jury returned a defense verdict. After the trial court denied the Castleberrys' motion for new trial, they filed this appeal.

The Castleberrys argue that the defense verdict was contrary to the evidence and that the trial court erred by failing to give their requested jury instruction on the

issue of causation. We hold that the Castleberrys have not shown reversible error. So we affirm.

1. Trial evidence

Viewed in the light most favorable to the jury's verdict, see *Fassnacht v. Moler*, 358 Ga. App. 463, 463 (855 SE2d 692) (2021), the evidence presented at trial showed that Steib admitted that he struck Castleberry's car while he was driving a fully loaded dump truck at a very low speed. The issue at trial was damages.

After the collision, Castleberry made multiple trips to the emergency room and visits to health care providers, seeking treatment for pain in her lower back, legs, right side, and neck. Eventually, she sought treatment from an orthopedic surgeon, who gave her injections for pain. The injections gave temporary relief, but they did not correct the problem, so Castleberry opted for surgery to relieve the pain in her neck. She underwent a second surgery four months later to relieve numbness, tingling, and pain in her back. Although the surgeries helped, Castleberry is still in pain.

The defense presented expert testimony that Castleberry's neck pain was unrelated to the collision and that her back surgery was unnecessary.

2. General grounds

The Castleberrys argue that the trial court erred in denying their motion for new trial on the general grounds, and specifically on the ground that the verdict was strongly against the weight of the evidence. They argue that “[t]he trial court’s disregard of ... crucial and dispositive matters of evidence clearly takes this case out of the realm of discretion, and demands a new trial in accordance with the principles of justice and equity.”

On the contrary, “[w]hether to grant a new trial on the general grounds ... is a decision left to the sole discretion of the trial court. [The Castleberrys] do[] not argue that the trial court failed to exercise its discretion under the general grounds, and we lack the authority to substitute our discretion for that of the trial court.” *Rease v. State*, ___ Ga. ___, S26A0001, slip op. at 23(6), n.13 (Ga. June 16, 2026) (2026 Ga. LEXIS 199) (citation modified). The record does not show that the trial court failed to exercise her discretion. So the Castleberrys have not shown reversible error.

3. Failure to give jury charge

The Castleberrys argue that the trial court erred by refusing to give one of their requested jury charges. They have not shown “substantial error [that] was harmful as

a matter of law,” OCGA § 5-5-24(c), as they were required to do since they did not object after the trial court instructed the jury.

At the charge conference, the trial court judge stated that she intended to give her own proximate cause charge, which is set forth below. The Castleberrys’ theory of the case was that the relatively minor injury the defendants admitted causing foreseeably resulted in medical malpractice, the unnecessary surgeries. So they requested that, instead, the trial court give the following charge:

A negligent actor is liable not only for the injury caused by his own acts, but is also liable for any additional harm resulting from the manner in which reasonably required medical services are rendered. ... The [d]efendants may be liable not only for damages resulting from his negligent act, but also for all damages resulting from the improper or unskillful treatment of the injuries by the physician.

The defendants also objected to the court’s proposed charge on the ground that it was incomplete. The trial court said that she would look at both parties’ proposed charges but as of that point, she intended to give the court’s proximate cause charge.

The Castleberrys raised the issue again later in the charge conference, arguing that the defendants were liable “not only for damages relative directly but also for all damages relative for the improper unskillful treatment of the injuries; which means

you can say it's unnecessary or negligent surgeries." The trial court noted their objection, but again declined to give their requested charge.

After the defense presented their case, the Castleberrys renewed their request for the charge. But the trial court did not alter her decision, and ultimately instructed the jury on proximate causation as follows:

An injury or damage is proximately caused by an act or a failure to act whenever it appears from the evidence that the act or failure to act played a substantial part in bringing about or actually causing the injury or damage; and that the injury or damage was either a direct result or reasonable probable consequence of the act or omission. In order to be a proximate cause, the act or omission must be such that a person using ordinary care would have foreseen that the event or some similar event might reasonably result, therefrom. There may be more than one proximate cause of an event.

The transcript does not show that the Castleberrys objected after the trial court finished instructing the jury.

"An objection voiced at the charge conference does not preserve for ordinary appellate review a party's objection to the charge as subsequently given." *Jivens v. State*, 317 Ga. 859, 861(1) (896 SE2d 516) (2023). Accord *McDowell v. Hartzog*, 292 Ga. 300, 301 (736 SE2d 395) (2013); *Tucker Nursing Ctr. v. Mosby*, 303 Ga. App. 80,

87(5) (692 SE2d 727) (2010). Instead, under OCGA § 5-5-24(a), “in all civil cases, no party may complain of the giving or the failure to give an instruction to the jury unless he objects thereto before the jury returns its verdict, stating distinctly the matter to which he objects and the grounds of his objection.” Thus, “to preserve an objection to a jury charge for ordinary appellate review, the defendant must restate his objection after the court gives its instructions and before the jury retires to deliberate.” *Jivens*, 317 Ga. at 861(1).

“Nevertheless, we ‘consider and review erroneous charges where there has been a substantial error in the charge which was harmful as a matter of law, regardless of whether objection was made hereunder or not.’ OCGA § 5-5-24(c).” *ATG Sports Indus. v. ITS Sprinturf Holdings*, 379 Ga. App. 63, 70(4) (928 SE2d 172) (2026). “Instances falling within the exception contemplated in subsection (c) are very rare, and the subsection must be strictly construed so as to avoid emasculat[i]on of the provisions of subsections (a) and (b).” *Nelson v. Miller*, 169 Ga. App. 403, 405 (312 SE2d 867) (1984) (citation modified).

To warrant relief under OCGA § 5-5-24(c), the alleged error “must be a substantial one which is blatantly apparent and prejudicial. ... The [alleged error] must

raise a question as to whether the appellant has been deprived of a fair trial[.]” *Nelson*, 169 Ga. App. at 405. In this case, given the trial court’s thorough instruction on proximate cause, “[w]e cannot agree that [the failure to give the requested instruction] constituted an error — if error it was — of such magnitude as to require reversal of the judgment below.” *Id.*

Judgment affirmed. Watkins and Padgett, JJ., concur.