

[Cite as *Bell v. Dept. of Rehab. & Corr.*, 2019-Ohio-507.]

CHRISTOPHER D. BELL

Plaintiff

v.

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

Case No. 2017-00414JD

Magistrate Anderson M. Renick

DECISION OF THE MAGISTRATE

{¶1} Plaintiff brought this action alleging negligence. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability.

{¶2} At all times relevant, plaintiff was an inmate in the custody and control of defendant pursuant to R.C. 5120.16. Plaintiff's claims arise from injuries he sustained on May 10, 2015 when he fell while working as a porter at the Toledo Correctional Institution (TCI). Plaintiff testified that he had been issued a medically prescribed cane and that the rubber tip of the cane had become worn so that the wooden shaft of the cane contacted the floor as he used it to help him walk.

{¶3} Plaintiff testified that he had been using a cane since it was prescribed to him in May 2014 by a nurse practitioner. Plaintiff explained that it was apparent that the rubber tip was damaged because a "clicking" sound was audible when the cane contacted the concrete floor. Plaintiff related that on April 28, 2015, he was working in the law library when a Corrections Officer (CO) Reisig gave him permission to leave the library and walk to the infirmary to obtain a new rubber tip for his cane. After he arrived at the infirmary, plaintiff informed CO Warren that his cane was defective and Nurse Michelle Manteuffel responded to his complaint. Nurse Manteuffel determined that plaintiff had neither obtained a written pass from his block officer to attend sick call, nor had medical staff been notified that plaintiff was coming to the infirmary.

Nurse Manteuffel refused to see plaintiff and CO Warren issued a conduct report to plaintiff for “being out of place.” (Plaintiff’s Exhibit 2.)

{¶4} On May 10, 2015, plaintiff was assigned to work as a porter and he testified that while he was performing his work, the wooden tip of his cane slipped on the concrete floor, causing him to lose his balance and fall. According to plaintiff, as a result of the fall, he sustained injuries to his back, neck and head. Defendant’s medical staff responded and he was taken to the infirmary in a wheelchair. (Defendant’s Exhibit D.) Plaintiff was treated and, after being periodically monitored in the infirmary, he was returned to his housing unit the next day.

{¶5} Michelle Manteuffel, R.N., testified that she has worked at TCI for approximately four and one-half years and that her primary duties include assessing inmate patients, responding to emergencies, and dispensing medications. Manteuffel recalled that plaintiff arrived at the infirmary on April 28, 2015 and she testified that a CO related that plaintiff needed assistance with his cane. According to Manteuffel, the CO was informed that plaintiff required a medical pass which could be obtained either by a request from plaintiff’s unit CO or by completing a health service request form (HSR). Manteuffel explained that HSRs are reviewed and inmates are then provided a sick call appointment according to the urgency of their need for care. Manteuffel testified that she reviewed plaintiff’s medical record and determined that no HSR was submitted between April 28, 2015 and the date of his injury.

{¶6} “[I]n order to establish actionable negligence, one seeking recovery must show the existence of a duty, the breach of the duty, and injury resulting proximately therefrom.” *Strother v. Hutchinson*, 67 Ohio St.2d 282, 285 (1981). “In the context of a custodial relationship between the state and its prisoners, the state owes a common law duty of reasonable care and protection from unreasonable risks.” *Rose v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 04AP-1360, 2005-Ohio-3935, ¶ 9. “The state, however, is not an insurer of inmate safety and owes the duty of ordinary care only to

inmates who are foreseeably at risk.” *Franks v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 12AP-442, 2013-Ohio-1519, ¶ 17. “Reasonable care is that degree of caution and foresight an ordinarily prudent person would employ in similar circumstances, and includes the duty to exercise reasonable care to prevent an inmate from being injured by a dangerous condition about which the state knows or should know.” *McElfresh v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 04AP-177, 2004-Ohio-5545, ¶ 16. “Prison inmates must also exercise reasonable care to ensure their own safety.” *Taylor v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 11AP-1156, 2012-Ohio-4792, ¶ 15.

{¶7} Plaintiff testified that several TCI staff members were aware of the poor condition of the rubber tip on his cane. Plaintiff identified an informal complaint resolution (ICR) that he submitted to Ms. Godsey, a TCI health care administrator, on April 28, 2015. (Plaintiff’s Exhibit 7.) Plaintiff explained in his complaint that his cane was in an unsafe condition and that Nurse Manteuffel did not respond to his concerns about the cane when he arrived at the infirmary on April 28, 2015. The ICR shows that Godsey responded to plaintiff’s complaint on May 7, 2015, stating that the situation was “being investigated.” According to the decision of the Chief Inspector, the inspector who reviewed plaintiff’s grievance was informed that the rubber cane tip “should have been exchanged” when plaintiff arrived at the infirmary and made that request. (Defendant’s Exhibit C.)

{¶8} Based upon the totality of the evidence, the court finds that the deteriorated condition of the rubber tip on plaintiff’s cane posed an unreasonable risk of harm to him, that defendant’s staff knew of the hazard prior to the incident, and that the hazard was the proximate cause of the fall that resulted in plaintiff’s injury. Although defendant contends that plaintiff failed to follow the proper procedure for scheduling a sick call appointment, the court finds that plaintiff exercised reasonable care for his own safety

by filing a grievance about the condition of his cane after Nurse Manteuffel refused to replace the defective tip.

{¶9} For the foregoing reasons, the court finds that plaintiff has proven his claim of negligence by a preponderance of the evidence. Accordingly, it is recommended that judgment be rendered in favor of plaintiff.

{¶10} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

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ANDERSON RENICK  
Magistrate