

[Cite as *Watley v. Ohio Dept. of Rehab. & Corr.*, 2001-Ohio-6993.]

IN THE COURT OF CLAIMS OF OHIO

RAYSHAN WATLEY :
:
Plaintiff : CASE NO. 2000-09881
:
v. : ENTRY GRANTING DEFENDANT'S
: MOTION FOR SUMMARY JUDGMENT
DEPARTMENT OF REHABILITATION :
AND CORRECTION :
:
Defendant :
:
: : : : : : : : : : : : : : : :

On November 9, 2001, defendant filed a motion for summary judgment. On November 19, 2001, plaintiff filed a motion in opposition to defendant's motion. The matter is now before the court for a non-oral hearing.

Civ.R. 56(C) states, in part, as follows:

*** Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against

whom the motion for summary judgment is made,
that party being entitled to have the
evidence or stipulation construed most
strongly in the party's favor. ***

See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

Plaintiff alleges that on May 5, 1999, while in custody of defendant at Mansfield Correctional Unit, he slipped and fell on a wet floor that defendant negligently failed to maintain. It is undisputed that the floor was wet because inmates had flooded the "range" area where plaintiff fell. According to the affidavits attached to defendant's motion, the flooding occurred at approximately 2:05 p.m. Defendant's personnel immediately shut off the water and inmate porters began to clean up the area. At approximately 2:35 p.m., plaintiff was taken from the unit to the local infirmary for treatment of an unrelated medical condition. He returned at 3:10 p.m. and fell on the wet floor. In his response, plaintiff asserts that defendant knew of the dangerous condition created by the wet floor and failed or refused to correct the problem. He submitted two exhibits in support his contentions.

In order to prevail upon his claim of negligence, plaintiff must prove by a preponderance of the evidence that defendant owed him a duty, that it breached that duty, and that the breach proximately caused his injuries. *Strother v. Hutchinson* (1981), 67 Ohio St.2d 282, 285. Ohio law imposes a duty of reasonable care upon the state to provide for its prisoner's health, care and well-being. *Clemets v. Heston* (1985), 20 Ohio App.3d 132, at 136. However, the state is not an insurer of inmate safety. See

Williams v. Ohio Department of Rehabilitation and Correction (1991), 61 Ohio Misc.2d 699, at 702. Although a special relationship exists between an inmate and his custodian, the duty owed in the relationship is one of reasonable care and protection by the custodian. *Id.*, 61 Ohio Misc.2d 699.

In this case, the court finds that plaintiff cannot meet his burden of proof that defendant breached the duty of care owed to him under the circumstances of this case. Plaintiff was aware of the wet condition of the floor at the time of the occurrence. Having such knowledge of his surroundings, plaintiff was in a position to exercise reasonable care for his own safety. Further, there is no question that defendant was not responsible for the wet condition of the floor or for plaintiff's fall. To impute liability upon defendant under the circumstances of this case would render defendant an insurer of an inmate's safety, in contravention of settled law. See *Williams, supra*. Accordingly, defendant's motion for summary judgment is GRANTED and judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

As a result of this judgment, both plaintiff's November 19, 2001, motion objecting to the filing of his deposition with the court and his November 23, 2001, "motion to compel defendant to review deposition," are OVERRULED as moot.

JUDGE

Case No. 2000-09881

-4-

ENTRY

Entry cc:

Rayshan Watley, #347-921
P.O. Box 45699
Lucasville, Ohio 45699

Pro se

Patrick J. Piccininni
65 East State St., 16th Fl.
Columbus, Ohio 43215

Assistant Attorney General

LH/cmd
Filed 12-11-2001
Jr. Vol. 689, Pgs. 94-96
To S.C. reporter 12-19-2001