

[Cite as *Zeigler v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-1711.]

IN THE COURT OF CLAIMS OF OHIO

CHARLES ZEIGLER

:

Plaintiff :

CASE NO. 2000-03051

v.

:

MAGISTRATE DECISION

DEPARTMENT OF REHABILITATION
AND CORRECTION

:

Anderson M. Renick, Magistrate

:

Defendant

: : : : : : : : : : :

{¶1} Plaintiff brings this action against defendant alleging negligence. The case was tried to a magistrate of the court on the sole issue of liability.

{¶2} At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant pursuant to R.C. 5120.16. Plaintiff worked as a laborer at defendant's "beef barn," a facility that is used to train inmates in livestock management. The inmates who work at the facility are supervised by employees from Ross Correctional Institution. On May 12, 1999, plaintiff and approximately four other inmates returned from their work assignment on a flatbed pickup truck. The truck was equipped with wooden side-rails and a safety chain that stretched across the back of the vehicle and a towing hitch and two safety hooks that had been welded to the rear bumper for pulling farm equipment. The hooks were used to attach other safety chains to towed equipment. On the day of the incident, plaintiff exited the vehicle by stepping over the chain at the back of the truck and onto the rear bumper. When plaintiff jumped from the bumper, his pant leg caught on one of the two safety hooks, causing him to fall to the ground. Plaintiff informed his supervisor that he had been injured and he subsequently received medical attention.

{¶3} Plaintiff contends that defendant negligently failed to provide a safe means to exit the vehicle. Specifically, plaintiff asserts that he was required to step over the safety chain onto a round bumper and that the hooks were placed on the bumper in an unsafe position. Defendant denies that the truck was unsafe and asserts that plaintiff failed to follow the proper procedure for exiting the truck.

{¶4} In order to prevail, plaintiff must prove by a preponderance of the evidence that defendant owed him a duty, that defendant breached that duty, and that defendant's breach of duty 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 prisoners' health, care and well-being. *Clemets v. Heston* (1985), 20 Ohio App.3d 132, 136. Reasonable or ordinary care is that degree of caution and foresight which an ordinarily prudent person would employ in similar circumstances. *Smith v. United Properties, Inc.* (1965), 2 Ohio St.2d 310. Although there is a special relationship between an inmate and his custodian, no higher standard of care is derived from this relationship. *Scebbi v. Ohio Dept. of Rehab. & Corr.* (March 21, 1989), Court of Claims No. 87-09439, unreported. "Where a prisoner also performs labor for the state, the duty owed by the state must be defined in the context of those additional facts which characterize the particular work performed." *McCoy v. Engle* (1987), 42 Ohio App.3d 204, 208.

{¶5} With regard to the configuration of the truck's bumper, the photographs offered as evidence by both parties depict two flat surfaces that were welded onto the round bumper where it attaches to the truck frame. Although plaintiff testified that he did not recall the flat areas, the photos were authenticated by several witnesses who testified that the bumper appeared as it did on the date of the incident. The court also notes that the safety hooks were in plain view and situated inboard from the flat surfaces that served as steps. Upon review of the testimony and evidence, the court finds that defendant's truck did not present an unreasonable risk of harm to plaintiff.

{¶6} Plaintiff began work at the beef barn back in February 1999. In order to do so, he was required to complete an "acknowledgment of safety practices" form that is used by defendant to document training on various tools, equipment and farming operations. Plaintiff initialed nine

training areas on the form including an item entitled “riding in trucks.” Plaintiff testified that he was instructed to sign and date the training form and that he did so even though he neither read the form nor received any training prior to beginning work. Plaintiff further testified that he assumed he would receive some training at a later date. Plaintiff denied that he was ever instructed on any procedure for climbing into or out of the truck.

{¶7} The training form was also signed by Rick Jenkins, the corrections officer (CO) supervisor in charge of inmates who worked at the beef barn. Jenkins testified that he personally trained each inmate before the inmate was allowed to use tools or farm equipment. Jenkins testified that it was his practice to ask the inmates whether they understood his instructions before they signed the training form. With regard to riding in the truck, Jenkins testified that inmates were instructed to hold onto the side-rail and to unlatch the safety chain before entering or exiting from the rear of the truck. The last inmate to enter or exit was responsible for re-latching the chain. Jenkins further testified that he would ensure that the chain was secure before the truck began to move. According to Jenkins, the truck had made over five hundred trips since he began working at the beef barn and no prior incidents had occurred.

{¶8} In support of his case, plaintiff offered the testimony of George Hicks, an inmate who worked as a clerk at the beef barn and who had on occasion observed CO Jenkins training other inmates. Although Hicks could not recall Jenkins’ specific instructions about exiting the truck, he did remember that Jenkins warned the inmates to be careful when they climbed onto or down from the vehicle. Hicks also stated that the first person to exit the truck was expected to unhook the chain before stepping onto the bumper.

{¶9} Michael Browning, an inmate who had been assigned to the beef barn for approximately ten years, also testified about the incident and defendant’s training procedures. Browning corroborated CO Jenkins’ testimony that newly assigned inmates received their initial training from Jenkins and that they were allowed to ask questions during the training. Browning specifically recalled Jenkins’ instructing him that the first person who exits the truck is to unhook the safety chain. Browning also recalled receiving instructions to hold onto the wood side-rail before

entering or exiting the vehicle. Contrary to plaintiff's testimony, Browning stated that plaintiff was the first passenger to exit the truck on the day of the incident. Browning testified that he was not aware of any similar incidents that had occurred at the farm.

{¶10} Based upon the foregoing, the court finds that plaintiff was provided training on safe procedures for exiting the truck. Although plaintiff testified that he initialed and signed the training form without receiving any instruction, CO Jenkins' testimony on that question was more credible and was consistent with the testimony of the other inmates. Furthermore, witnesses called by both parties testified that the inmates who rode in the truck were warned by their supervisor to be careful when exiting. At the time of the incident, plaintiff had been in the truck many times in the preceding twelve weeks and had ample opportunity to become familiar with the configuration of the rear bumper, including the location of the hooks.

{¶11} Moreover, plaintiff's own testimony leads the court to the conclusion that it was plaintiff's negligence that was the sole proximate cause of his injuries. Both inmates Hicks and Browning testified that the standard practice was for the first inmate to unhook the safety chain before anyone exited the vehicle. Plaintiff stated that he stepped over the safety chain and onto the bumper before he jumped to the ground. Although plaintiff testified that he was aware of the safety hooks, he did not avoid them when he stepped onto the round portion of the bumper rather than the flat area. Plaintiff also chose not to hold onto the wooden side-rail when he stepped off of the truck. Under the circumstances, the court concludes that plaintiff's own carelessness caused him to catch his pant leg on the trailer hook and fall to the ground.

{¶12} In short, plaintiff did not prove by a preponderance of the evidence that defendant breached the duty of care owed to him or that any alleged negligence on the part of defendant proximately caused his injury. Judgment is recommended in favor of defendant.

ANDERSON M. RENICK
Magistrate

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Filed 3-27-2002
To S.C. reporter 4-15-2002