

{¶4} In the early morning hours of December 18, 2000, plaintiff was told to get dressed and gather his personal items in preparation for his transfer from MaCI to GCI. Plaintiff testified that he awakened at 4:30 a.m. and dressed warmly for the trip to GCI. He estimated that the temperature outside was approximately twenty degrees with a wind chill factor of minus twenty-one degrees. After plaintiff ate breakfast in the dining facility, Lieutenant Cox escorted plaintiff and several other inmates to the discharge area for transfer. Lieutenant Cox ordered plaintiff to remove his parka, T-shirt, pants, and long johns and to put on a jumpsuit and light deck shoes. He was handcuffed, shackled at the legs, and told to sit on a bench to await a bus for transfer.

{¶5} Plaintiff further testified that it was not until 6:40 a.m. that he heard the diesel engine of the bus start. Soon thereafter, the bus arrived at the discharge area and was loaded with inmate property. After the property was loaded, the inmates boarded the bus. Plaintiff sat in the third seat from the rear of the bus. The bus first traveled about one mile to London Correctional Institution (LCI) to pick up additional inmates. According to plaintiff, the bus was shut off for an extended period of time while the inmates boarded, thus further extending the duration of plaintiff's exposure to freezing temperatures.

{¶6} The bus then traveled on back roads from LCI to its first stop at the Correctional Medical Center (CMC) in Columbus. Plaintiff stated that the bus was extremely cold and did not seem to warm up until its arrival at CMC. Upon his arrival at CMC, he demanded to see a doctor and complained of frostbite.

{¶7} Corrections Officer (CO) Gillespie testified that he transported the inmates by bus from MaCI and LCI to GCI on December 18, 2000. He started the bus at approximately 5:50 a.m. and entered MaCI between 6:20 and 6:40 a.m. He allowed the bus to idle long enough to warm up prior to boarding inmates at MaCI. CO Gillespie explained, contrary to plaintiff's testimony, that the bus was operated by a diesel engine which was never shut off except for two short periods of time while passing through security at MaCI and LCI. The bus also had an independent heater located on the floor in

the middle of the bus that was probably on as high as it could go because it was so cold outside. During the trip, no inmates complained of cold temperature or requested coats.

{¶8} CO Gillespie testified that he took one of three approved routes from LCI to CMC, but could not remember the particular route he took on December 18, 2000. However, all three routes took approximately the same time, from forty-five minutes to one hour.

{¶9} Plaintiff was evaluated by CMC Clinic Coordinator Ramon Perez. Perez testified that he holds a bachelor's degree, is working on his master's degree, is a registered nurse and that he served as a medic in the military before beginning his employment at the Department of Rehabilitation and Correction (DRC) in 1993. Perez also testified that he and another nurse examined fifteen inmates who arrived from MaCI with complaints of frostbite. Perez stated that he examined plaintiff and determined that, although he had been exposed to cold, he did not have frostbite. He testified that plaintiff's temperature was 96.4 degrees, which is within normal limits, and that plaintiff's extremities were cold.

{¶10} Plaintiff and the other transferring inmates were provided coats, socks, underwear and undershirts for the final leg of their trip. Plaintiff transferred from the bus to a small van for the remainder of the trip to GCI. Upon arrival at GCI, the inmates were again medically evaluated as part of the intake process. Plaintiff's medical intake report does not mention any complaint of frostbite by plaintiff upon arrival at GCI. (Defendant's Exhibit C.) Under "assessment" the medical report states: "Normal, healthy 45 yr. old caucasian [*sic*] male."

{¶11} The court finds that as a result of the extreme cold, despite being on a heated bus, the inmates did experience some exposure to cold. In fact, medical personnel evaluated all fifteen inmates for possible frostbite when the bus arrived at CMC. However, none of the inmates, including plaintiff, had frostbite, and all of them were issued coats,

socks, underwear and undershirts for the remainder of their trip. Upon arrival at GCI, plaintiff did not mention any medical problem related to being cold.

{¶12} Based upon the evidence presented, the court finds that defendant did not breach its duty of reasonable care to plaintiff under the circumstances. Temperatures on the day of plaintiff's transfer were unusually cold. The COs who participated in the transfer followed established procedures with respect to preparation of the bus and inmates for transfer. The bus and its heater were operating properly. Defendant's response to the unusual situation of extreme cold was reasonable and, in fact, prevented any injury to the inmates. Therefore, the court concludes that plaintiff has failed to establish any negligence on the part of defendant.

{¶13} Accordingly, judgment is recommended in favor of defendant.

STEVEN A. LARSON
Magistrate

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