

[Cite as *Jones v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-431.]

IN THE COURT OF CLAIMS OF OHIO

RODNEY JONES :

Plaintiff : CASE NO. 99-13355

v. : MAGISTRATE DECISION

DEPARTMENT OF REHABILITATION : Anderson M. Renick, Magistrate
AND CORRECTION :

Defendant :

: : : : : : : : : : : : : : :

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

At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant pursuant to R.C. 5120.16. On January 22, 1998, plaintiff was housed in unit "2B" at Ross Correctional Institution (RCI) in Chillicothe, Ohio. On that date, plaintiff went to a unit dayroom known as the "quiet room" for recreation. Plaintiff was seated at a table that was originally constructed with four permanently attached plastic chairs. Each chair was bolted to a metal plate that was supported by the table frame. However, one of the chairs was missing from the table, leaving its supporting plate and several metal bolts exposed. Plaintiff chose to sit on the metal plate because all of the available chairs were occupied. He had been sitting at the table for only a few minutes when he lost his

balance and fell off his seat. When plaintiff fell, he cut his leg on a bolt that protruded from the supporting plate.

In order for plaintiff to prevail upon his claim of negligence, he 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. Ordinarily, under the common law of Ohio, the duty owed by an owner or occupier of premises is determined by the status of the injured person, as either a trespasser, a licensee, or an invitee. *Patete v. Benko* (1986), 29 Ohio App.3d 325. An inmate incarcerated in a state penal institution is not afforded the status of any of the traditional classifications. However, in the context of the custodial relationship between the state and its inmates, the state has a duty to exercise reasonable care to prevent prisoners in its custody from being injured by dangerous conditions about which the state knows or should know. *Moore v. Ohio Dept. of Rehab & Corr.* (1993), 89 Ohio App.3d 107, 112; *McCoy v. Engle* (1987), 42 Ohio App.3d 204. Nonetheless, the state is not the insurer of inmate safety. See *Williams v. Ohio Dept. of Rehab. and Corr.* (1991), 61 Ohio Misc.2d 699, at 702.

Sergeant John Johnson, a Corrections Officer (CO) on duty in "2B" at the time of the incident, testified that there were several broken chairs in the unit and that unit staff were responsible for writing work orders to have the broken chairs repaired. Donald Clever, Jr., the unit manager, testified that although he was aware of broken chairs in the unit, he could not recall whether he knew that this particular chair was broken at the time of the incident. The court finds that the testimony of Johnson and Clever is sufficient to demonstrate that defendant

either knew or should have known of the condition of the chair prior to plaintiff's accident.

The testimony and evidence also supports plaintiff's contention that the broken seat was potentially dangerous. Lieutenant Ray McGraw, the second shift supervisor in "2B" on the day of the incident, investigated the incident and took witness statements and photographs of the broken chair. The photographs depict a metal supporting plate with at least three metal bolts extending from it. (Plaintiff's Exhibit 1.) Other photographs show what appears to be the same chair support without the bolts. (Plaintiff's Exhibit 6.) Although the court finds it would be apparent to any observer that the metal supporting plate was not intended as a seat, it is also apparent that the exposed bolts posed a danger, however slight. Consequently, defendant had a duty to take reasonable steps to protect inmates from the hazard.

At trial, defendant's employees explained their efforts to repair broken chairs. Sergeant Johnson testified that work orders had been issued to repair similar chairs and that all RCI staff members were authorized to issue work orders. Plaintiff introduced work orders that had been completed prior to the incident, which showed that plastic chairs in units "1A" and "1B" had been replaced with wooden seats.

Cleaver explained that work is completed according to a priority system. Defendant's policy regarding work order priority states that, in most cases, the maintenance superintendent is responsible for assigning the priority level. Ray Alexander, defendant's maintenance supervisor, testified that it was not uncommon for the plastic chairs to break and that, generally, furniture repair did not receive a high priority. Alexander explained that repairs that receive the highest

priority typically involve safety or security concerns, such as a broken part that could be used as a weapon. The court finds that it was reasonable for defendant to assign a relatively low priority to the chair repairs because the danger posed by the broken chair was open and obvious.

While defendant owed plaintiff a duty of care with respect to the broken chair, plaintiff also had a duty to exercise reasonable care for his own protection. See *Williams v. Southern Ohio Correctional Facility* (1990), 67 Ohio App.3d 517, 526. "Plaintiff was not free to place himself in harm's way, and then complain after he was injured that DRC failed to protect him from [an obvious hazard]." *Dean v. Dept. of Rehab. & Corr.* (Sept. 24, 1998), Franklin App. No 97API12-1614, unreported. Ohio's comparative negligence statute, R.C. 2315.19, bars a plaintiff from recovery if his or her own negligence is greater than defendant's. "Contributory negligence" means "any want of ordinary care on the part of the person injured, which combined and concurred with the defendant's negligence and contributed to the injury as a proximate cause thereof, and as an element without which the injury would not have occurred." *Joyce-Couch v. DeSilva* (1991), 77 Ohio App.3d 278, 290.

Plaintiff testified that he was aware of the condition of the broken seat before he sat down on it, but that he chose to sit on the metal supporting plate. The testimony and evidence presented demonstrates that the hazard posed by the metal bolts was open, obvious and known by plaintiff to exist. The court finds that plaintiff was not acting in a reasonably prudent manner when he chose to sit on the broken chair support.

Furthermore, plaintiff testified that he fell when he leaned backwards to look for another inmate.

The court concludes that plaintiff failed to use reasonable care for his personal safety by choosing to sit on the broken chair support and that his own actions caused him to lose his

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balance and fall. Therefore, plaintiff's own negligence bars his recovery. Judgment is recommended in favor of defendant.

ANDERSON M. RENICK
Magistrate

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