

[Cite as *Walston v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-5112.]

IN THE COURT OF CLAIMS OF OHIO

ROGER WALSTON :  
Plaintiff : CASE NO. 2000-02194  
v. : JUDGMENT ENTRY  
DEPARTMENT OF REHABILITATION : Judge Fred J. Shoemaker  
AND CORRECTION :  
Defendant :  
: : : : : : : : : : : : : : : :

{¶1} This case was tried to the court on the issue of plaintiff's damages.

{¶2} On March 16, 1999, plaintiff sustained injuries due to defendant's failure to implement a restriction that limited plaintiff's cell assignment to a bottom bunk on the lower range of the unit. Plaintiff testified that prior to the incident he suffered from stiffness in his back and right knee; that after the incident he stayed at the infirmary for two and one-half days; that he was very stiff after the incident and could hardly move; and that he was prescribed pain medication to alleviate his discomfort.

{¶3} Plaintiff further testified that currently he suffers from stiffness in his back that does not go away. He stated that he cannot walk long distances, has burning sensation in his knees and shooting, burning pains in the back of his legs. He also stated that he cannot stand completely straight and that the pain never completely goes away. He said that he is taking Motrin for pain.

{¶4} Bruce Martin, M.D., the medical director for defendant, testified that he is responsible for the review of numerous medical cases and for the authorization of prescriptions of certain drugs to inmate patients. He stated that he reviewed plaintiff's entire medical record in preparation for trial, during which he testified that plaintiff had undergone an MRI of his lumbar spine in 1994 and again in 1999, after his injury. He opined that based upon plaintiff's medical record, plaintiff suffered from degenerative joint disease, which existed prior to the incident on March 16, 1999. He opined that the incident aggravated plaintiff's pre-existing condition of degenerative joint disease.

{¶5} Based upon the testimony at trial and the exhibits in evidence, the court finds that plaintiff suffered damages in the amount of \$6,500 as a result of the incident on March 16, 1999. As stated in the court's previous decision with regard to liability, plaintiff's damages must be reduced by 35 percent, to account for plaintiff's contributory negligence. Therefore, judgment is rendered in favor of plaintiff in the amount of \$4,250 which includes, but is not limited to pain, suffering, compensatory damages and the filing fee paid by plaintiff. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

FRED J. SHOEMAKER  
Judge

Entry cc:

Richard F. Swope  
6504 E. Main Street  
Reynoldsburg, Ohio 43068

Attorney for Plaintiff

Case No. 2000-02194

- 3 -

JUDGMENT ENTRY

Lisa M. Eschbacher  
65 East State St., 16th Fl.  
Columbus, Ohio 43215

Assistant Attorney General

HTS/cmd  
Filed 9-19-2002  
Jr. Vol. 719, Pgs. 117-118/To S.C. reporter 9-27-2002