

[Cite as *Rose v. Ohio Dept. of Rehab. and Corr.*, 2004-Ohio-6581.]

IN THE COURT OF CLAIMS OF OHIO

STACY ROSE

:

Plaintiff :

CASE NO. 2002-06201

Judge Fred J. Shoemaker

v.

:

Magistrate Steven A. Larson

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

:

JUDGMENT ENTRY

:

Defendant

: : : : : : : : : : :

{¶ 1} This case was tried to a magistrate of the court. On June 30, 2004, the magistrate issued a decision recommending judgment for defendant.

{¶ 2} Civ.R. 53(E)(3)(a) states: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, regardless of whether the court has adopted the decision pursuant to Civ.R. 53(E)(4)(c). ****” In this case plaintiff requested three extensions of time to file his objections. Each of the extensions were granted and plaintiff timely filed his objections on October 4, 2004. Defendant filed a response on November 1, 2004.

{¶ 3} Plaintiff filed the following objections to the magistrate’s decision:

{¶ 4} “1.) The Magistrate’s ruling that Plaintiff had the obligation to ensure Defendants followed their procedures for circulating bottom bunk restrictions is contrary to law and inconsistent with the accepted facts;

{¶ 5} “2.) The Magistrate’s ruling that Defendants were not aware of the accumulation of water on the floor in the sixty year old building is contrary to the admission water did accumulate in droplets on the walls, the fact no correctional officer who was consistently on duty in the dorm refuted that water during rain storms accumulated on the floor and no follow up was made after Skinner noted the condition caused by the condensation;

{¶ 6} “3.) The Magistrate’s Decision is inconsistent with the established fact Plaintiff had a prior surgery and excluding water, exit from the top bunk as required easily caused this accident and aggravated Plaintiff’s existing injuries;

{¶ 7} “4.) The Magistrate’s ruling imposing a duty on an inmate to enforce a doctor’s order is inconsistent with prison conditions and restrictions as indicated by the reversal of the accusation Plaintiff lied about having the restriction;

{¶ 8} “5.) The testimony of Sgt. Skinner and Inspector Scott do not refute constructive notice, considering the testimony of Inmate Simmons and Plaintiff that the condition was open, obvious and occurred frequently, Sgt. Skinner only having worked one shift and not having been present during the incident and all weather conditions and the State having failed to call correctional officers in charge of the dormitory on the various shifts who could refute Plaintiff’s testimony;

{¶ 9} “6.) The decision of the Magistrate is against the manifest weight of the evidence and is contrary to law.”

{¶ 10} In plaintiff’s objections, plaintiff disagrees with several factual findings made by the magistrate and the legal conclusions drawn therefrom. After reviewing the record, trial transcript, admitted exhibits, and the magistrate’s decision, the court finds that the magistrate’s conclusion regarding liability is supported by the greater weight of the evidence reviewed.

{¶ 11} Upon review of the record, the magistrate’s decision, and the objections, the court finds that the magistrate correctly analyzed the issues and applied the law to the facts. Therefore, the objections are **OVERRULED** and the court adopts the magistrate’s decision and recommendation as its own, including the findings of fact and conclusions of law contained therein. 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.

FRED J. SHOEMAKER

Judge

Entry cc:

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