

[Cite as *Hayes v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-5751.]

IN THE COURT OF CLAIMS OF OHIO

RICHARD V. HAYES :

Plaintiff :

V. :

CASE NO. 2005-03695-AD

OHIO DEPT. OF REHABILITATION :
AND CORRECTIONS

MEMORANDUM DECISION

Defendant

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{¶ 1} On January 6, 2005, at approximately 7:00 p.m., plaintiff, Richard V. Hayes, an inmate incarcerated at defendant's Southern Ohio Correctional Facility ("SOCF"), complained about chest pain when he was receiving medication dispensed by an institution nurse.

Plaintiff related he requested the SOCF employee nurse on duty, identified as K. Joyner, take his vital signs after making his complaint about chest pain. Plaintiff pointed out he was extremely concerned about his physical complaints due to the fact he suffers from a form of heart disease (calcifications in a coronary artery).

Plaintiff asserted that Nurse Joyner refused to take his blood pressure and temperature after he made these requests and was ordered back to his housing without receiving any type of treatment, care, or testing in response to his initial physical complaint. Plaintiff stated he suffered chronic chest pains through the remainder of the night of January 6, 2005, and into the morning of January 7, 2005. Plaintiff explained he had previously underwent a CT Scan (October 18, 2004 or November 18, 2004) at Ohio State University Hospital and the scan revealed his coronary artery was blocked with calcified material.

{¶ 2} Plaintiff contended he did not receive adequate or sufficient care from Nurse Joyner when he complained of chest pain

on January 6, 2005. Plaintiff, consequently filed this complaint seeking to recover \$2,500.00, the statutory maximum amount recoverable due to the alleged inadequate care. Plaintiff characterized his claim for injury suffered as "continued chest pains through the night." Plaintiff did not assert defendant's acts or inactions caused or exacerbated the manifestations of his physical disability. Plaintiff claimed his pain was exacerbated because he did not receive any medication.

{¶ 3} Defendant acknowledged plaintiff complained to Nurse Joyner of experiencing chest pain while Nurse Joyner was administering medications during pill call on January 6, 2005. After making a cursory assessment, Nurse Joyner advised plaintiff to sign up for sick call or notify an on duty corrections officer if he experienced additional physical complaints. Defendant insisted plaintiff's physical condition was adequately assessed by Nurse Joyner. Defendant asserted plaintiff failed to prove he received inadequate medical attention on January 6, 2005.

{¶ 4} Defendant explained plaintiff received treatment and testing on multiple occasions between September 2004 and June 2005 for complaints of chest pain. Defendant noted plaintiff was given a CT Scan on October 18, 2004, due to complaints of chest pain. This procedure, according to defendant, did not reveal any cardiac problems. Subsequently, plaintiff had further testing including a stress echo, electrocardiogram, an exercise stress, and a CT angiogram. Defendant maintained all these tests indicated plaintiff had normal cardiac function. Additionally, plaintiff was examined and treated by a cardiologist at the Ohio State University Hospital. Defendant related the attending cardiologist believed plaintiff's chest pain was not cardiac in nature. Defendant contended plaintiff has failed to produce sufficient evidence to prove he received substandard nurse care on January 6, 2005.

Furthermore, defendant contended plaintiff failed to prove he suffered any injury on January 6, 2005, as a result of any act or omission on the part of Nurse Joyner.

{¶ 5} Plaintiff again argued he did not receive adequate medical attention on January 6, 2005 and he suffered pain and distress as a result of having his physical complaints ignored.¹ Plaintiff did not submit any evidence other than his own opinion to show he received inadequate nursing care on January 6, 2005.

{¶ 6} 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. The Supreme Court of Ohio has held that, "[b]ecause nurses are persons of superior knowledge and skill, nurses must employ that degree of care and skill that a nurse practitioner of ordinary care, skill and diligence should employ in like circumstances. Whether a nurse has satisfied or breached the duty of care owed to the patient is determined by the applicable standard of conduct, which is proved by expert testimony." *Berdyck v. Shinde*, 66 Ohio St. 3d 573, 1993-Ohio-183, paragraph 3 of the syllabus. Since plaintiff, in the instant claim, has failed to produce the required evidence of expert testimony, his claim is denied. Plaintiff's opinion alone is insufficient.

IN THE COURT OF CLAIMS OF OHIO

¹ Plaintiff filed a response.

RICHARD V. HAYES	:	
Plaintiff	:	
v.	:	CASE NO. 2005-03695-AD
OHIO DEPT. OF REHABILITATION AND CORRECTIONS	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
Defendant	:	
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Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, 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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Richard V. Hayes, #156-605 1728 State Rte. 728 Lucasville, Ohio 45699	Plaintiff, Pro se
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Gregory C. Trout, Chief Counsel Department of Rehabilitation and Correction 1050 Freeway Drive North Columbus, Ohio 43229	For Defendant
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RDK/laa
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