

IN THE COURT OF CLAIMS OF OHIO

JOSHUA D. COOK

Plaintiff

v.

OHIO STATE HIGHWAY PATROL

Defendant

Case No. 2023-00592AD

Deputy Clerk Holly True Shaver

MEMORANDUM DECISION

{¶1} Joshua Cook (“plaintiff”) filed a complaint against defendant, Ohio State Highway Patrol (“OSHP”), asserting that it failed to investigate plaintiff’s claim that an inmate sexually assaulted plaintiff at Belmont Correctional Institution. Plaintiff seeks damages in the amount of \$10,000.00. Plaintiff was not required to submit the \$25.00 filing fee.

{¶2} Defendant submitted an investigation report denying liability in this matter. Defendant asserted that it is immune from liability pursuant to R.C. 2743.02, which codifies the public duty doctrine. OSHP contended that investigation and law enforcement functions are both statutory public duties for which plaintiff cannot establish a special relationship to overcome. Finally, defendant stated that plaintiff’s allegations of sexual assault were investigated by OSHP and submitted to the Belmont County Prosecutor; however, the prosecutor declined to bring charges, finding that the evidence from the investigation showed that plaintiff’s relationship with the purported offender was consensual.

{¶3} Plaintiff filed a response to defendant’s investigation report asserting that there was a special relationship between plaintiff and OSHP because OSHP is the only entity that can investigate plaintiff’s allegations.

{¶4} To prevail in a claim for negligence, plaintiff must prove, by a preponderance of the evidence, that defendant owed plaintiff a duty, that defendant breached that duty, and that defendant’s breach proximately caused plaintiff’s damages. *Armstrong v. Best*

*Buy Co., Inc.*, 99 Ohio St.3d 79, 2003-Ohio-2573, 788 N.E.2d 1088, ¶ 8 citing *Menifee v. Ohio Welding Prods., Inc.*, 15 Ohio St.3d 75, 77, 472 N.E.2d 707 (1984).

{¶5} “The State of Ohio is not liable in a civil action for negligence based on the performance or non-performance of a ‘public duty.’” *Rudd v. Ohio State Hwy. Patrol*, 2016-Ohio-8263, 78 N.E.3d 273, ¶ 13 (10th Dist.), citing R.C. 2743.02(A)(3)(a); see also *Rooney v. Ohio State Hwy. Patrol*, 2017-Ohio-1123, 87 N.E.3d 777, ¶ 16 (10th Dist.). The statute defines public duty to include any statutory, regulatory, or assumed duty concerning any action or omission of the state involving, among other things, “investigating” and “law enforcement.” R.C. 2743.01(E)(1)(a). “It is well established that the government is not amenable to suit by a private individual for a breach of a public duty.” *Legacy Academy for Leaders v. Mt. Calvary Pentecostal Church*, 2013-Ohio-4214, 999 N.E.2d 175, ¶ 9 (10th Dist.), quoting *Ashland Cty. Bd. of Commrs. v. Ohio Dept. of Taxation*, 63 Ohio St.3d 648, 654, 590 N.E.2d 730 (1992).

{¶6} “Public duty immunity does not apply to the state’s action, however, where a ‘special relationship’ can be established between the state and an injured party.” *Conner v. Wright State Univ.*, 10th Dist. Franklin No. 13AP-116, 2013-Ohio-5701, ¶ 11.

{¶7} R.C. 2743.02(A)(3)(b) states, in part:

A special relationship \* \* \* is demonstrated if all of the following elements exist: (i) An assumption by the state, by means of promises or actions, of an affirmative duty to act on behalf of the party who was allegedly injured; (ii) Knowledge on the part of the state’s agents that inaction of the state could lead to harm; (iii) Some form of direct contact between the state’s agents and the injured party; (iv) The injured party’s justifiable reliance on the state’s affirmative undertaking.

{¶8} R.C. 5503.02 states that “[t]he superintendent or any state highway patrol trooper may enforce the criminal laws on all state properties and state institutions”. This includes the state correctional institutions. Accordingly, the investigation of a crime that occurred at a state correctional facility falls under the definition of public duty under R.C. 2743.01(E)(1)(a). Plaintiff did not provide any evidence to support his contention that a special relationship existed between himself and OSHP. Therefore, the court finds that

the investigation of plaintiff's allegations, or the failure to investigate the same, is a public duty for which OSHP is immune from liability.

{¶9} Moreover, even if plaintiff had proven that a special relationship existed between himself and OSHP, the evidence in the investigation report shows that OSHP did, in fact, investigate plaintiff's allegations and that the Belmont County Prosecutor declined to bring charges against the alleged offender because the relationship was consensual. In short, plaintiff has failed to prove by a preponderance of the evidence that OSHP breached any duty owed to him.

{¶10} Therefore, judgment is rendered in favor of defendant.

JOSHUA D. COOK

Plaintiff

v.

OHIO STATE HIGHWAY PATROL

Defendant

Case No. 2023-00592AD

Deputy Clerk Holly True Shaver

ENTRY OF ADMINISTRATIVE  
DETERMINATION

{¶11} 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.

---

HOLLY TRUE SHAVER  
Deputy Clerk