

IN THE COURT OF CLAIMS OF OHIO

JEROME LEE, JR.

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2025-00895JD

Magistrate Gary Peterson

DECISION OF THE MAGISTRATE

{¶1} Plaintiff, formerly an inmate in the custody and control of defendant, brings this action for negligence. The court previously dismissed plaintiff's medical claim and constitutional claim. The issues of liability and damages were not bifurcated, and the case proceeded to trial on the issue of negligence.

Findings of Fact

{¶2} On August 5, 2025, plaintiff was returning to his housing unit after spending time at the law library. Plaintiff was at the crash gate waiting for a corrections officer to open it to allow him to continue down the hallway to his unit. Plaintiff had been in the housing unit for several months at that point and had walked the hallway multiple times per day. Mandi Hill, an administrative professional employed at the Toledo Correctional Institution (TOCI), was also waiting at the crash gate for a staff member to open the gate. The hallway was well lit and there was no one else in the hallway.

{¶3} After the crash gate opened, Hill saw a puddle of water on the floor and stepped over the puddle of water. The puddle of water was a couple of feet from the crash gate, and the puddle was about 1 or 2 feet in diameter. Nothing obstructed Hill's view of the puddle, and Hill expected plaintiff, who was behind Hill, to also step over the puddle.

{¶4} Plaintiff, who estimated that he was 4 feet behind Hill, slipped on the puddle and fell. After plaintiff fell, he noticed that the water was coming from a leak in the ceiling and that there were no signs warning of the puddle in the hallway. Nothing obstructed plaintiff's view of the puddle and if he had looked down at the puddle, he would have been able to see it. Plaintiff informed Hill that he required medical attention. Hill remained with plaintiff until an officer arrived. That officer did not slip in the puddle of water, and Hill continued to her meeting.

{¶5} Breanna Davis, a registered nurse, was called to the scene to assist plaintiff. When Davis arrived, plaintiff was on the floor near a puddle of water. Davis reported that plaintiff complained of neck and back pain. Plaintiff was then transported to the medical department by way of a stretcher for medical evaluation and treatment.

{¶6} At the medical department, Davis performed an assessment and evaluation. Davis did not note any injuries or abnormalities. Davis documented that plaintiff's respirations were normal and that he had full range of motion and a steady gait. Davis noted that plaintiff was initially on the stretcher stating that he was unable to move, but later became irate and stormed out of the medical department. Davis reported that plaintiff walked back to his housing unit on his own. Davis completed a medical exam report documenting the exam. Defendant's Exhibit B.

{¶7} Plaintiff followed up with a sick call appointment on August 7, 2025, again reporting pain in his neck and back. After a head-to-toe exam, the nurse did not note any abnormalities but did prescribe Tylenol and ibuprofen. Defendant's Exhibit C. Plaintiff returned to medical for a sick call appointment on August 12, 2025, again reporting neck and back pain. Clinical findings were negative for an injury, plaintiff was documented to have full range of motion, and nothing abnormal appeared from the assessment. Defendant's Exhibit D.

{¶8} On August 29, 2025, plaintiff reported to an advanced level provider, Jennifer Hacker, a nurse practitioner, again with reports of neck and back pain. Plaintiff was seen by Hacker because it was his third visit to medical for the same complaint and defendant's policy required that he then be seen by an advanced level provider. Hacker performed an exam and noted that the exam was unremarkable. Hacker wrote "Discussed that exam

does not match his reports of pain especially him not allowing palpitation of spine. He smiled and nodded his head.” Defendant’s Exhibit E.

{¶9} Because plaintiff had continued to complain of pain, defendant’s medical staff observed him walk around the institution. Hacker noted that plaintiff was able to walk up and down stairs with ease, his gait was steady, and he was able to go to recreation with ease. Hacker added that the observation report was not consistent with plaintiff’s subjective reports of pain. Defendant’s Exhibit F.

{¶10} On September 25, 2025, plaintiff again returned to a sick call appointment with complaints of neck and back pain. Hacker noted that the exam was unremarkable and that there was no indication for pain medication. Defendant’s Exhibit G.

{¶11} No other witnesses testified and there were no other exhibits submitted.

{¶12} At the conclusion of plaintiff’s case, defendant moved to dismiss plaintiff’s case pursuant to Civ.R. 41(B)(2). Defendant moved to dismiss any potential medical claim and any potential claim arising from the conditions of confinement. Defendant also moved to dismiss plaintiff’s negligence claim. The undersigned noted that the court previously dismissed plaintiff’s medical claim and any constitutional claims.¹ Accordingly, the magistrate recommends that any malpractice claim and any claim arising from the conditions of confinement be dismissed pursuant to Civ.R. 41(B)(2). The magistrate recommends that the motion be denied with respect to plaintiff’s negligence claim.

Conclusions of Law and Discussion

{¶13} To prevail on a claim for negligence, plaintiff must prove by a preponderance of the evidence that “(1) the defendant owed the plaintiff a duty, (2) the defendant breached that duty, and (3) the breach of the duty proximately caused the plaintiff’s injury.” *Jenkins v. Ohio Dept. of Rehab & Corr.*, 2013-Ohio-5106, ¶ 6 (10th Dist.).

{¶14} As it relates to those who are incarcerated, “the state owes a common-law duty of reasonable care and protection from unreasonable risks.” *Id.* at ¶ 8. Reasonable care is “defined as the degree of caution and foresight that an ordinarily prudent person

¹ Complaints regarding these conditions of confinement are treated as constitutional claims arising under 42 U.S.C.S. § 1983. *Arnoff v. Ohio Dept. of Rehab. & Corr.*, 2025-Ohio-5238, ¶ 21.

would employ in similar circumstances.” *Id.* Exercising reasonable care includes the duty “to prevent an inmate from being injured by a dangerous condition about which the state knows or should know.” *McElfresh v. Ohio Dept. of Rehab. & Corr.*, 2004-Ohio-5545, ¶ 16 (10th Dist.). Although the state’s duty varies with the particular circumstances, the state “is not an insurer of inmate safety[.]” *Id.* Indeed, inmates “are also required to use reasonable care to ensure their own safety.” *Jenkins* at ¶ 8.

{¶15} Additionally, absent any attendant circumstances, an owner or occupier ordinarily owes no duty to warn an invitee of “open and obvious dangers” on the premises because “the open and obvious nature of the hazard itself serves as a warning” and it is reasonable to expect that the invitees “entering the premises will discover those dangers and take appropriate measures to protect themselves.” *Cordell v. Ohio Dept. of Rehab. & Corr.*, 2009-Ohio-1555, ¶ 6, 19 (10th Dist.) (internal citations omitted); *but see Dean v. Ohio Dept. of Rehab. & Corr.*, 1998 Ohio App. LEXIS 4451, 4-5 (10th Dist. Sept. 24, 1998) (The court declined to apply the open and obvious doctrine where an inmate-worker was ordered by defendant to perform a task where he could not avoid the hazard that caused his fall).

{¶16} “The ‘open and obvious doctrine,’ where warranted, may be applied in actions against the ODRC with the result that ODRC would owe no duty to an injured inmate.” *Williams v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-2669, ¶ 8 (10th Dist.). To be open and obvious, the condition must not be “hidden, concealed from view, or undiscoverable upon ordinary inspection.” *Jenkins* at ¶ 11. The fact that an injured person failed to observe the dangerous condition is immaterial. *Id.* Rather, “the determinative issue is whether the condition is observable.” *Id.* “Even in cases where the plaintiff did not actually notice the condition until after he or she fell, [the Tenth District Court of Appeals] has found no duty where the plaintiff could have seen the condition if he or she had looked. . . . Thus, a pedestrian’s failure to avoid an obstruction because he or she did not look down is no excuse.” *Cooper v. Meijer Stores, L.P.*, 2007-Ohio-6086, ¶ 13 (10th Dist.), citing *Lydic v. Lowe’s Cos., Inc.*, 2002-Ohio-5001, ¶ 10 (10th Dist.).

{¶17} Attendant circumstances act as an exception to the application of the open and obvious doctrine and are those circumstances that “divert the attention of the individual and significantly enhance the danger of the hazard and thus contribute to the

fall”, including, but not limited to, “poor lighting, a large volume of pedestrian traffic, the visibility of the defect, the overall condition of the walkway, and whether the nature of the site is such that one’s attention would be easily distracted.” *Jenkins* at ¶ 16.

{¶18} Upon review, the magistrate finds that plaintiff failed to prove his claim by a preponderance of the evidence. The magistrate finds that the puddle of water was open and obvious. Nothing obstructed plaintiff’s ability to view the puddle of water in the hallway. Right after plaintiff fell, he was able to immediately identify the cause of his fall and the source of the puddle; thus, the puddle was discoverable upon ordinary inspection. Although Hill was in the vicinity of plaintiff when he fell, she was approximately 4 feet away from plaintiff and did not obstruct his view of the puddle. Hill was able to successfully avoid the puddle by stepping over the puddle. Hill expected that plaintiff would likewise step over the puddle. Additionally, the hallway was well lit at the time. Finally, plaintiff acknowledged that if he had been looking at the ground, he would have seen the puddle in the hallway. Plaintiff’s failure to observe the puddle because he did not look before stepping does not make the hazard unobservable. See *Washington v. Ohio Dept. of Rehab. & Corr.*, 2010-Ohio-4323, ¶ 16-19 (10th Dist.); *Jenkins, supra*, at ¶ 15; see also *Price v. Ohio Dept. of Rehab. & Corr.*, 2014-Ohio-3522, ¶ 12-20 (10th Dist.). In short, there was nothing that hid, concealed, or made undiscoverable the puddle of water on the floor. Thus, the puddle was not hidden, concealed from view, or undiscoverable upon ordinary inspection. See *Williams*, 2005-Ohio-2669, ¶ 15 (finding that where an inmate-plaintiff slipped on a puddle of water in an area that was well lit and free of obstruction, the trial court did not err in applying the open and obvious doctrine).

{¶19} While plaintiff suggested that he was not free to avoid the puddle as he was required to use the hallway, there is no evidence that plaintiff was unable to walk over or around the puddle or otherwise avoid the puddle. Additionally, the puddle itself served as a warning to plaintiff. The evidence established that the puddle was 1 or 2 feet in diameter and Hill was able to successfully avoid the puddle when she walked by it. There is no evidence that plaintiff’s only route was through the small puddle of water on the floor or that the puddle was unavoidable.

{¶20} Plaintiff did not argue or present any evidence that attendant circumstances existed such that application of the open and obvious doctrine should not apply to his

claim. Nevertheless, the magistrate finds that there is no evidence that attendant circumstances exist. Therefore, plaintiff's negligence claim must fail.

{¶21} Based upon the foregoing, the magistrate recommends that judgment be rendered in favor of defendant.

{¶22} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

GARY PETERSON
Magistrate

Filed August 14, 2026
Sent to S.C. Reporter 9/21/26