

whom the motion for summary judgment is made,
that party being entitled to have the
evidence or stipulation construed most
strongly in the party's favor. ***

See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

Plaintiff alleges that on May 5, 1999, while in custody of defendant at Mansfield Correctional Unit, he slipped and fell on a wet floor that defendant negligently failed to maintain. It is undisputed that the floor was wet because inmates had flooded the "range" area where plaintiff fell. According to the affidavits attached to defendant's motion, the flooding occurred at approximately 2:05 p.m. Defendant's personnel immediately shut off the water and inmate porters began to clean up the area. At approximately 2:35 p.m., plaintiff was taken from the unit to the local infirmary for treatment of an unrelated medical condition. He returned at 3:10 p.m. and fell on the wet floor. In his response, plaintiff asserts that defendant knew of the dangerous condition created by the wet floor and failed or refused to correct the problem. He submitted two exhibits in support his contentions.

In order to prevail upon his claim of negligence, plaintiff 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. Ohio law imposes a duty of reasonable care upon the state to provide for its prisoner's health, care and well-being. *Clemets v. Heston* (1985), 20 Ohio App.3d 132, at 136. However, the state is not an insurer of inmate safety. See

Williams v. Ohio Department of Rehabilitation and Correction (1991), 61 Ohio Misc.2d 699, at 702. Although a special relationship exists between an inmate and his custodian, the duty owed in the relationship is one of reasonable care and protection by the custodian. *Id.*, 61 Ohio Misc.2d 699.

In this case, the court finds that plaintiff cannot meet his burden of proof that defendant breached the duty of care owed to him under the circumstances of this case. Plaintiff was aware of the wet condition of the floor at the time of the occurrence. Having such knowledge of his surroundings, plaintiff was in a position to exercise reasonable care for his own safety. Further, there is no question that defendant was not responsible for the wet condition of the floor or for plaintiff's fall. To impute liability upon defendant under the circumstances of this case would render defendant an insurer of an inmate's safety, in contravention of settled law. See *Williams, supra*. Accordingly, defendant's motion for summary judgment is GRANTED and 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.

As a result of this judgment, both plaintiff's November 19, 2001, motion objecting to the filing of his deposition with the court and his November 23, 2001, "motion to compel defendant to review deposition," are OVERRULED as moot.

JUDGE

Case No. 2000-09881

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ENTRY

Entry cc:

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