[Cite as *Meadows v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-1288.]

IN THE COURT OF CLAIMS OF OHIO

VIRGINIA MEADOWS, Admr.	:	
Plaintiff	:	CASE NO. 2001-02287 Judge J. Craig Wright
v.	:	Magistrate Steven A. Larson
DEPARTMENT OF REHABILITATION AND CORRECTION, et al.	:	MAGISTRATE DECISION
Defendants	:	

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{¶ 1} Plaintiff[1] brought this action against defendant,[2] alleging a claim of negligence. Plaintiff asserts that he was injured when he was struck by a golf cart that was negligently operated by defendant's employee who was responding to an emergency. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability. At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant pursuant to R.C. 5120.16.

{¶ 2} Plaintiff's widow, Virginia Meadows, testified that plaintiff had progressive glaucoma which required him to wear corrective lenses and to use a magnifying glass for reading. In late March of 2000, one week after the alleged incident, Ms. Meadows visited plaintiff. Ms. Meadows stated that at that time plaintiff appeared to be in pain, specifically in his lower back.

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[1] Before this case came to trial, plaintiff Nathaniel Meadows passed away and Virginia Meadows, Admr. was substituted as party plaintiff. For the remainder of the decision, plaintiff shall refer to Nathaniel Meadows.

[2] For the purposes of this decision, defendant shall refer to the Department of Rehabilitation and Correction.

Additionally, Ms. Meadows testified that in the year prior to his death in 2001, plaintiff had told her of at least three separate instances in which he had fallen.

{¶ 3} Inmate Keith Paden testified that on March 21, 2000, he saw plaintiff walking on the sidewalk as the golf cart headed towards plaintiff; however, because Paden was engaged in a conversation at the time, he did not see the golf cart strike plaintiff. According to Paden, when he heard a noise he turned to look, and saw that the golf cart had already passed by plaintiff and that plaintiff was sitting on the ground.

{¶ 4} Sergeant Michael Hagans was a passenger in the golf cart on March 21, 2000. Hagans and Lieutenant Carl Jones, the driver, were responding to a "man-down" alarm that had sounded in the health center. A man-down alarm is communicated by radio to COs and supervisors when an emergency arises; for example, when a CO is in need of assistance or in the case of a medical emergency. It is the duty of all the officers to respond to a man-down alarm as quickly as possible. Jones and Hagans used the golf cart to expedite their response.

{¶ 5} Hagans noticed that there were several hundred inmates on the sidewalks, and that plaintiff was directly ahead ambulating with the help of a walker. Jones drove onto the grass to avoid hitting plaintiff. Hagans stated that there was a small drop-off from the sidewalk onto the grass and that when the tires of the golf cart left the sidewalk, they made a popping noise. Hagans testified that as the golf cart was directed around plaintiff, there was at least two feet of clearance. After the incident, plaintiff approached Hagans and asked who was driving because "the cart almost hit me."

{¶ 6} Jones testified that he was responding to a man-down alarm, that he saw plaintiff walking on the sidewalk, that he was aware that plaintiff's hearing and vision were impaired, and that he left about three feet between plaintiff and the golf cart. Additionally, he testified that when he drove off the sidewalk to avoid plaintiff, the tires made a noise at the drop-off point.

{¶ 7} James Lemaster, a phlebotomist employed by defendant, testified that he was exiting the health center when he saw the golf cart overtake plaintiff who was walking from the center while the golf cart was headed toward the center. He stated that the cart went off the sidewalk and that there was two feet of clearance between the cart and plaintiff. He recalled seeing plaintiff fall after the cart had already passed.

{¶ 8} Dr. Lenzy Gerard Southall was a physician with defendant who had treated plaintiff for numerous conditions. Southall testified that plaintiff's medical history prior to March 21, 2000, included lower back pain, mild scoliosis, an arthritic back, and hypertension. He recalled treating plaintiff for injuries that were sustained in two other falls. (Defendant's Exhibits J & P.)

{¶ 9} Plaintiff was evaluated in the emergency room on March 21, 2000, and was seen by Dr. Southall seven days later. After reviewing the March 21 medical report and conducting his own exam of plaintiff, Dr. Southall did not find any injuries that would indicate that plaintiff had been struck by the golf cart. Dr. Southall recalled that after plaintiff had been informed of this fact, he was offered a share of any money from a lawsuit in return for false documentation of an injury.

{¶ 10} In order to prevail on a negligence claim, plaintiff must prove by a preponderance of the evidence that defendant owed

him a duty, that it breached such duty, and that the breach proximately caused plaintiff's 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, 136. Reasonable or ordinary care is that degree of caution and foresight which an ordinarily prudent person would employ in similar circumstances. *Smith v. United Properties Inc.* (1965), 2 Ohio St.2d 310. However, the state is not an insurer of inmates' safety. See *Williams v. Ohio Department of Rehabilitation and Correction* (1991), 61 Ohio Misc.2d 699, at 702.

{¶ 11} Based upon the totality of the evidence presented, the court finds that plaintiff was not struck by the golf cart on March 21, 2000. The evidence shows that the golf cart passed two to three feet from plaintiff and that plaintiff did not show any signs of physical injury despite his complaints of pain.

{¶ 12} For the foregoing reasons, the court concludes that plaintiff has failed to prove his claim by a preponderance of the evidence. Accordingly, judgment is recommended in favor of defendants.

{¶ 13} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the court's adoption of any finding or conclusion of law contained in the magistrate's decision unless the party timely and specifically objects to that finding or conclusion as required by Civ.R. 53(E)(3).*

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STEVEN A. LARSON
Magistrate

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LM/cmd
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