



guard that covered the bit. 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; *Menifee v. Ohio Welding Products, Inc.* (1984), 15 Ohio St.3d 75, 77. Defendant owed plaintiff the common law duty of reasonable care. *Justice v. Rose* (1975), 102 Ohio App. 482. Reasonable care is that which would be utilized by an ordinarily prudent person under certain circumstances. *Smith v. United Properties, Inc.* (1965), 2 Ohio St.2d 310.

{¶ 5} While the court is cognizant of a “special relationship” between an inmate and his custodian, no higher standard of care is derived from the relationship. *Clemets v. Heston* (1985), 20 Ohio App.3d 132. The state is not an insurer of the safety of its prisoners; however, once it becomes aware of a dangerous condition in the prison, it is required to take the degree of reasonable care necessary to ensure that the prisoner is not injured. *Id.* “\*\*\* [W]here a prisoner also performs labor for the state, the duty owed by the state must be defined in the context of those additional facts which characterize the particular work performed.” *McCoy v. Engle* (1987), 42 Ohio App.3d 204, 208.

{¶ 6} Ronald Warren, the manager for the OPI furniture factory, testified that at the time of the incident plaintiff had more than three and one-half years of experience operating the router. According to Warren, shop training is conducted by both OPI staff and experienced inmates. Warren explained that all inmates are required to participate in an orientation program and a 30-day probation period during which the inmates are not allowed to operate machinery. Warren testified that OPI workers also receive periodic refresher training and monthly safety courses. On November 22, 1999, plaintiff signed a document that listed the safety training and shop rules that were addressed at the OPI orientation program. (Defendant’s Exhibit B.) Plaintiff acknowledged that he was issued a copy of the shop rules and that the rules and monthly safety meetings were explained to him.

{¶ 7} Regarding the operation of the router, Warren testified that the bit rotates clockwise and that the material to be routed should be fed against the rotation of the bit. Warren explained that the proper router technique requires the operator to use pressure to move the material against the router

bit and that material that is improperly fed can cause the router to grab or pull both the material and the operator's hands towards the bit. Warren emphasized that an operator working on a tabletop that is 42 inches in diameter should keep his hands approximately 16 to 21 inches away from the router bit and that an operator should never have his hands near the bit.

{¶ 8} Based upon the testimony and evidence, the court finds that plaintiff received adequate training to operate the router in a safe manner and that he was not using the proper routing technique when he was injured. The court notes that plaintiff's training record shows that the topic of the January 31, 2003, safety meeting was "protecting hands and fingers." Although plaintiff claims that he was injured because a knot in the wooden tabletop caused him to lose control of the material, the court finds that the proximate cause of plaintiff's injuries was his failure to properly operate the router and a disregard for his own safety. Plaintiff failed to prove that defendant breached its duty to provide adequate operational and safety training for the router.

{¶ 9} Plaintiff's assertion that defendant had negligently removed a "box" or guard that had covered the router bit was contradicted by the testimony of both Kim Pinnock and Ronald Warren. Both Pinnock and Warren testified that they had never observed a guard on the router. Pinnock testified that he began using the router in 2002, the same year that plaintiff was trained to use the machine. Warren testified that the router was not manufactured with a guard and that the machine had been used without a guard since the shop first opened in 1987. According to Warren, the Occupational Safety and Health Administration has conducted annual inspections of the furniture shop and has never issued a citation for the router or suggested that the machine should be equipped with a guard.

{¶ 10} The court finds that plaintiff failed to prove that the router was either designed to operate with a guard or that defendant removed any safety device that had been installed on the machine. Moreover, there is no evidence that plaintiff was injured as a result of the router malfunctioning, that the router had ever previously malfunctioned, or that it was in a condition of disrepair. Warren testified that the router had been in operation for 17 years and that plaintiff is the only operator who had been injured using the machine. Therefore, the court finds that plaintiff has

failed to prove that the router was unreasonably dangerous or that defendant breached any duty owed to him regarding its condition.

{¶ 11} 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 defendant.

*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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ANDERSON M. RENICK  
Magistrate

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