

[Cite as *Richmond v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-5601.]

IN THE COURT OF CLAIMS OF OHIO
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DONALD RICHMOND	:		
	:		
Plaintiff	:	CASE NO. 2004-03292	
	:	Judge J. Craig Wright	
v.	:		
	:		
	:	<u>DECISION</u>	
	:		
OHIO DEPARTMENT OF REHABILITATION AND CORRECTION	:		:
Defendant	:		
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{¶ 1} Plaintiff brought this action against defendant, Ohio Department of Rehabilitation and Correction alleging negligence. Defendant has admitted liability. On May 4, 2005, this matter proceeded to trial on the issue of damages. The record was left open until July 19, 2005, when the deposition testimony of Dr. Brentley Buchele and Mark Anderson was presented.

{¶ 2} Upon review of the evidence and the arguments of counsel, the court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

{¶ 3} At all times relevant to this action, plaintiff was an inmate at the Orient Correctional Institution (Orient) in the custody and control of defendant pursuant to R.C. 5120.16;

{¶ 4} Prior to 1999, plaintiff aided in the removal and replacement of electrical wiring during renovation of dormitories at Orient. After renovations were completed, plaintiff accepted an offer to work as an electrician’s helper;

{¶ 5} On January 8, 2002, plaintiff was working on a faulty breaker under the supervision of two of defendant's employees, a maintenance worker III and an electrician II. Although the breaker was de-energized, an electrical flash enveloped plaintiff causing burns to his hands and face;

{¶ 6} Plaintiff was transported to the Ohio State University Medical Center (OSUMC) for treatment and was diagnosed with second-degree burns to his hands and first-degree facial burns;

{¶ 7} Dr. Buchele, a plastic surgeon at OSUMC, testified that although second-degree burns cause a "partial thickness" of the remaining living tissue in the area of the burn the skin will heal without grafting. According to Dr. Buchele, plaintiff's facial burns were comparable to a sunburn;

{¶ 8} At OSUMC, plaintiff underwent multiple "scrubbings" for his second-degree burns. During this procedure, dead skin is removed from the wound with a washcloth, the area is covered with "silverdine," and then wrapped in gauze. This process was repeated twice daily during plaintiff's stay at OSUMC. Plaintiff described the scrubbings as the worst pain he had suffered in his life;

{¶ 9} On January 11, 2002, plaintiff was transported to the Corrections Medical Center where he received an additional nine days of treatment for his second-degree burns. By the end of February 2002, plaintiff had regained full function of his hands but complete recovery was hampered by the development of "contracture," a scarring of the webbing between his left thumb and index finger that significantly reduced the range of motion in his hand. Plaintiff's first-degree facial burns healed with no residual effects;

{¶ 10} On September 5, 2002, plaintiff underwent a one-hour outpatient plastic surgery known as a z-plasty to relieve the contracture. In that procedure, a z-shaped incision is made along

the contraction so that the triangular flaps of skin can be raised and transposed to create greater web space;

{¶ 11} The plastic surgery successfully restored both the range of motion and flexibility in plaintiff's web spacing although plaintiff does have scarring on his hands and the area remains sensitive. Additionally, while plaintiff has been released from treatment and his skin is expected to toughen with time, the areas where plaintiff's hands were burned are more sensitive to below-freezing temperatures. Consequently, plaintiff has difficulty with his grip strength when he is exposed to colder temperatures. This condition is not expected to improve in the future;

{¶ 12} Defendant has provided all medical treatment at no cost to plaintiff;

{¶ 13} In 1991, plaintiff pleaded guilty to gross sexual imposition and rape. Plaintiff is scheduled to be released in October 2006. He is required to register as a sex offender upon his release;

{¶ 14} Prior to his incarceration, plaintiff was employed as a construction laborer. Plaintiff maintained employment with a concrete-pouring company for three years, left for employment with a new company, and later returned to his former employer for another two years;

{¶ 15} Mark Anderson, a board-certified vocational expert and counselor, testified that plaintiff's injury and resulting cold sensitivity denies plaintiff access to 15 percent of the jobs that would have been available to him upon his release. Anderson's opinion is based upon the Federal Department of Labor Consensus, his prior experience in evaluating paroled inmates, plaintiff's classification as a felon, the impact of the burn injuries, and plaintiff's completion of his G.E.D. The court finds the testimony of Anderson to be both credible and persuasive.

CONCLUSIONS OF LAW

{¶ 16} Plaintiff has conceded that any wage loss he incurred while incarcerated is negligible and he does not present a claim for those losses; however, the court finds that upon his release plaintiff will incur future wage losses as a direct and proximate result of defendant's negligence;

{¶ 17} Plaintiff has not sustained any damages in the form of unreimbursed medical expense as a direct and proximate result of defendant's negligence and he will not sustain any such damages in the future;

{¶ 18} Plaintiff has endured and will continue to endure pain and suffering as a direct and proximate result of defendant's negligence;

{¶ 19} Based upon the above findings and conclusions, the court concludes that plaintiff is entitled to recover the sum of \$132,000 from defendant as damages for his pain and suffering and future economic losses proximately caused by defendant's negligence.

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	:	<u>JUDGMENT ENTRY</u>
OHIO DEPARTMENT OF	:	
REHABILITATION AND CORRECTION	:	
Defendant	:	
	:	
: : : : : : : : : : : :		

This case was tried to the court on the issue of damages. The court has considered the evidence and, for the reasons set forth in the decision filed concurrently herewith, judgment is hereby rendered in favor of plaintiff in the amount of \$132,025, which includes the filing fee paid by plaintiff. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. CRAIG WRIGHT
Judge

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