

having to eat a high-calorie diet; and that he was subjected to medical experimentation by defendant's medical staff.

{¶ 3} Upon cross-examination, plaintiff explained that he had suffered head trauma before being incarcerated which led to sleep disorders and diabetes. Plaintiff admitted that, while in defendant's custody, defendant's medical staff monitored his blood sugar levels periodically; administered insulin; counseled him regarding proper nutrition for his diabetes; and sent him for medical consultation for sleep problems. Plaintiff further stated that defendant provided him with medical care, but that the care was inadequate.

{¶ 4} 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, 285.

{¶ 5} As this court stated in its decision regarding defendant's motion for summary judgment: "Generally, in order to prevail on a claim of medical malpractice, the appropriate standard of care must be proven by expert testimony. *Bruni v. Tatsumi* (1976), 46 Ohio St.2d 127, 130. An exception to the requirement of expert testimony exists where the lack of skill or care of the physician is so apparent it is within the comprehension of the lay person's common knowledge and experience, making expert testimony superfluous. *Id.* Here, plaintiff claims that prescribed medical treatment was not administered by defendant's medical staff. As such, plaintiff arguably presents a claim that may be proven even in the absence of expert testimony. *Bruni, supra*, at 130-132."

Martin v. Mansfield Corr. Inst. (Mar. 1, 2005), Court of Claims No. 2004-05180, p. 3.

{¶ 6} Plaintiff did not present any evidence at trial to substantiate his claim that prescribed treatment was not provided to him. Plaintiff also failed to present the testimony of any medical expert to support his medical malpractice claim; rather, the sole testimony presented was that of plaintiff.

{¶ 7} Upon review of the testimony and evidence presented at trial, the court finds that plaintiff has failed to prove his claim of medical malpractice by a preponderance of the evidence. Plaintiff presented no expert medical testimony regarding the appropriate standard of care. Although plaintiff testified that he was given drugs such as Prozac while in defendant's custody, the court cannot conclude that it is within a lay person's common knowledge and experience as to which prescription medications should have been prescribed to treat plaintiff's narcolepsy. Moreover, plaintiff presented no medical expert testimony regarding what type of diet is appropriate to manage his diabetes. Lastly, plaintiff failed to present any evidence to substantiate his claim of medical experimentation.

{¶ 8} For the foregoing reasons, the court finds that plaintiff has failed to prove his claim of medical malpractice by a preponderance of the evidence and 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).

STEVEN A. LARSON
Magistrate

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