

{¶ 4} Plaintiff asserts that defendant negligently removed a safety guard that was designed to prevent the operator's hands from coming into contact with the blade. Additionally, plaintiff claims that defendant was negligent in its duty to properly supervise and train him in the use of the saw and that defendant failed to warn him of the defective condition of the machine. 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* (1957), 102 Ohio App. 482. Reasonable care is defined as the degree of caution and foresight that an ordinarily prudent person would employ in similar circumstances. *Woods v. Ohio Dept. of Rehab. & Corr.* (1998), 130 Ohio App.3d 742, 745.

{¶ 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, but once it becomes aware of a dangerous condition in the prison, it is required to take the reasonable steps necessary to protect the prisoner from harm. *Id.* at 136. Prisoners, however, are also required to use reasonable care to ensure their own safety. See, e.g., *Macklin v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 01AP-293, 2002-Ohio-5069, ¶21, citing *Perry v. Eastgreen Realty Co.* (1977), 55 Ohio App.2d 130, 132. "*** [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} William Parizek, the carpentry shop instructor, testified that he conducted a safety orientation with plaintiff after he enrolled in the carpentry program. Parizek explained that the orientation training covered operating procedures and safety features for each power tool that plaintiff was taught to operate. Parizek recalled that plaintiff had worked in the construction trade and that he had experience operating power tools. Parizek testified that plaintiff's training records showed that plaintiff completed approximately one hour of instruction on the table saw on July 9, 2003. Parizek evaluated plaintiff's proficiency on the table saw and noted in the training record that plaintiff was "skilled" in all categories including "rip cut" and "safety." (Defendant's Exhibit C.) Plaintiff also signed an "Acknowledgment of Safety Practices" form that documented that he received additional training on the table saw on July 11, 2003. (Defendant's Exhibit A.) Parizek testified that he would not allow any inmate to operate the table saw until the inmate had demonstrated proficiency using it.

{¶ 7} On the day of the incident, Parizek instructed a class on installing roof shingles while inmate Brunty, a program aide with 20 years of construction experience, supervised the area where the table saw was located. Parizek testified that he gave plaintiff permission to remove the safety guard and that he saw plaintiff do so prior to beginning his work on the machine. Parizek explained that the design of the table permitted the operator to remove the guard to perform the very type of detailed work plaintiff attempted to perform. According to Parizek, inmate Brunty had earlier in the day cautioned plaintiff to use the proper cutting technique after the wood that plaintiff was cutting "kicked back." Parizek also

testified that both he and inmate Brunty had observed plaintiff carelessly reach over the table saw blade on the day of the incident. Parizek further testified that he had also warned plaintiff that same day not to use the table saw in an unsafe manner and that he directed plaintiff to stand behind the machine so that plaintiff would not reach over the saw blade.

{¶ 8} The testimony and evidence established that plaintiff had experience operating a variety of power tools. Plaintiff testified that he received training on the table saw and that he signed training records that documented the areas of operational and safety training which he had received. Plaintiff stated that he had "quite a bit" of experience using the saw during his time working in the carpentry shop and that he received specific instructions regarding the use of a push stick to feed wood into the saw blade. Plaintiff also acknowledged that Parizek warned him that improperly operating the saw could result in injury. Based upon the foregoing, the court finds that plaintiff received adequate training in the safe operation of the table saw, but that he was using the saw in an improper manner when he was injured. The court concludes that plaintiff failed to prove that defendant breached its duty to provide adequate operational and safety training on the table saw.

{¶ 9} Although plaintiff asserts that defendant was negligent for allowing him to use the table saw without the safety guard, he offered no support for his assertion that the saw was not intended for use without the guard. Parizek testified that the saw could be operated safely without the guard and that certain cutting techniques required that the guard be removed.

{¶ 10} Furthermore, the credibility of witnesses is a significant issue in this case, as there is conflicting testimony whether the safety guard was installed on the table saw prior to

J. CRAIG WRIGHT
Judge

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