



evidence or stipulation construed most strongly in the party's favor. \*\*\*" See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 4} It is not disputed that plaintiff was an inmate in the custody and control of the Department of Rehabilitation and Correction (DRC) at the Corrections Medical Center (CMC) at all times relevant to this action. R.C. 5120.16. In his complaint, plaintiff alleges that he underwent hernia surgery on April 30, 2003, at OSUMC; that as a result of the surgery plaintiff developed a complication known as an incarcerated bowel; and that he had to undergo a second surgery on May 5, 2003.

{¶ 5} In order to prevail on a claim of medical malpractice or professional negligence, plaintiff must first prove: 1) the standard of care recognized by the medical community; 2) the failure of defendant to meet the requisite standard of care; and, 3) a direct causal connection between the medically negligent act and the injury sustained. *Bruni v. Tatsumi* (1976), 46 Ohio St.2d 127. The appropriate standard of care must be proven by expert testimony. *Id.* at 130. That expert testimony must explain what a medical professional of ordinary skill, care, and diligence in the same medical specialty would do in similar circumstances. *Id.*

{¶ 6} In support of the motion for summary judgment, OSUMC relies on the affidavit of Dr. Charles Cook to establish the absence of genuine issues of material fact and to demonstrate that defendant is entitled to judgment as a matter of law. Dr. Cook's affidavit provides in relevant part:

{¶ 7} "\*\*\*

{¶ 8} "4. That in 2003 there was a contract between the Ohio Department of Rehabilitation and Correction pursuant to which

affiant provided medical services to prisoners, including William Schooley;

{¶ 9} "\*\*\*.

{¶ 10} "6. That, according to OSUMC records, William Schooley underwent surgery on April 30, 2003, and was transferred to the care of the Department of Rehabilitation and Correction.

{¶ 11} "7. That on May 4, 2003, William Schooley returned to the OSUMC Emergency Department for a failed hernia repair and incarcerated bowel;

{¶ 12} "8. That on May 5, 2003, affiant reoperated on William Schooley and found an incarcerated bowel due to a failed hernia repair. It was repaired, and Mr. Schooley's abdomen was closed using gore-tex mesh. A copy of the operative notes of that surgery on May 5, 2003 is attached;

{¶ 13} "9. That hernia repair failure and incarcerated bowel are potential complications of hernia surgery of the type performed by Dr. Gowdamarajan in April 2003, which can and do occur in the patients even though the surgeon has complied with all applicable standards of medical care.

{¶ 14} "10. That it did not appear to affiant that this complication following Dr. Gowdamarajan's surgery of April 30, 2003, was the result of any negligence on the part of Dr. Gowdamarajan, or a failure on his part to comply with the applicable standards of medical and surgical care.

{¶ 15} "\*\*\*."

{¶ 16} On April 6, 2005, plaintiff filed notice with the court that he has not retained an expert witness for this case. Plaintiff's May 27, 2005, memorandum in opposition alleges that he underwent hernia repair surgeries in May 2003 and January 2005 and that he received no post-operative care following either surgery.

However, plaintiff did not submit his own affidavit or any other admissible evidence in support of these claims.<sup>1</sup>

{¶ 17} Civ.R. 56(E) provides in relevant part:

{¶ 18} "\*\*\* When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party's pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party."

{¶ 19} In light of the standard of review, the court finds that the only reasonable conclusion to be drawn from the evidence is that defendant, OSUMC, did not breach the medical and surgical standard of care owed to plaintiff and that it is entitled to judgment as a matter of law. The motion for summary judgment shall be granted. Plaintiff's claims against defendant, DRC, remain pending.

IN THE COURT OF CLAIMS OF OHIO  
www.cco.state.oh.us

WILLIAM SCHOOLEY :  
Plaintiff : CASE NO. 2004-08405  
v. : Judge J. Craig Wright  
Magistrate Steven A. Larson  
OHIO DEPARTMENT OF : JUDGMENT ENTRY  
REHABILITATION AND CORRECTION :  
Defendant :

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<sup>1</sup>Additionally, plaintiff's response is not accompanied by proof of service upon all parties as required by Civ.R. 5(D).

