

[Cite as *Gudliauskas v. Lakefront State Park*, 2005-Ohio-5598.]

IN THE COURT OF CLAIMS OF OHIO
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ROMUALDAS GUDLIAUSKAS :
Plaintiff : CASE NO. 2004-08464
v. : Judge Joseph T. Clark
LAKEFRONT STATE PARK : DECISION
Defendant :
: : : : : : : : : : : : : : : :

{¶ 1} Plaintiff brought this action against defendant alleging a claim of negligence. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability.

{¶ 2} Plaintiff testified that on the morning of July 25, 2004, he was in-line skating at Lakefront State Park, where he typically skated 13 to 20 laps each day on a circular pathway. According to plaintiff, the park was unoccupied with the exception of himself and two other people who were walking together. On plaintiff's final lap, he descended a slight hill. Plaintiff saw the couple walking ahead of him and called out to warn them that he was passing them on their left side. Plaintiff also saw a park ranger driving a truck on a path that intersected the path on which he was traveling. Plaintiff testified that he did not believe that the driver was watching him or that the driver would stop. Plaintiff estimated that he was skating at a rate of approximately 12 to 15 miles per hour and, in order to avoid colliding with the truck, he applied the brakes to his skates. However, due to his high rate of speed, plaintiff fell, injuring his face, right hand, and left

shoulder. Plaintiff testified that the truck had stopped just as he applied his brakes.

{¶ 3} Barry Moore testified that he had more than 20 years of experience as a park ranger and that he had worked for defendant for five years. Moore testified that he was driving slowly down a path at the park when he saw two people he knew; that he pulled his vehicle off to the side of the path to stop and talk to them; and that he then saw plaintiff come down the path toward him and fall. According to Moore, there was sufficient room in front of his vehicle for plaintiff to have safely passed.

{¶ 4} Plaintiff asserts that defendant's employee was negligent and that the employee's negligence proximately caused his injuries. Defendant asserts that plaintiff's claim is barred by R.C. 1533.181, Ohio's recreational user statute.

{¶ 5} The version of R.C. 1533.18 in effect in July 2004, stated:

{¶ 6} "As used in sections 1533.18 and 1533.181 [1533.18.1] of the Revised Code:

{¶ 7} "(A) 'Premises' means all privately-owned lands, ways, and waters, and any buildings and structures thereon, *and all state-owned lands, ways, and waters* leased to a private person, firm, or organization, including any buildings and structures thereon.

{¶ 8} "(B) 'Recreational user' means a person to whom permission has been granted, without the payment of a fee or consideration to the owner, lessee, or occupant of premises, other than a fee or consideration paid to the state or any agency of the state, to enter upon premises to hunt, fish, trap, camp, hike, swim, operate a snowmobile or all-purpose vehicle, or engage in *other recreational pursuits.*" (Emphasis added.)

{¶ 9} In-line skating falls within the category of "other recreational pursuits" as defined in R.C. 1533.18(B). See *Ross v. Strasser* (1996), 116 Ohio App.3d 662, 668.

{¶ 10} The version of R.C. 1533.181 in effect in July 2004, stated:

{¶ 11} "(A) No owner, lessee, or occupant of premises:

{¶ 12} "(1) Owes any duty to a recreational user to keep the premises safe for entry or use;

{¶ 13} "(2) Extends any assurance to a recreational user, through the act of giving permission, that the premises are safe for entry or use;

{¶ 14} "(3) Assumes responsibility for or incurs liability for any injury to person or property caused by any act of a recreational user. ***"

{¶ 15} The state owes no duty to recreational users of state parks, who pay no fee or consideration for admission, to keep the premises safe for entry or use. *Phillips v. Ohio Dept. of Natural Resources* (1985), 26 Ohio App.3d 77. Plaintiff testified that he did not pay any fee to use the park.

{¶ 16} There is no dispute that plaintiff's injuries occurred on state-owned property while he was engaged in a recreational pursuit. Pursuant to R.C. 1533.18 and 1533.181, the court finds that defendant owed no duty of care to keep the premises safe for use by plaintiff, and, consequently, defendant is not liable for plaintiff's injuries under a theory of negligence. See *Meiser v. Ohio Dept. of Natural Resources*, Court of Claims No. 2003-10392-AD, 2004-Ohio-2097. Therefore, plaintiff's claim is barred by R.C. 1533.181. Accordingly, judgment shall be rendered in favor of defendant.

To S.C. reporter October 20, 2005