

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

DAVID WORTHINGTON

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2008-01383

Judge Clark B. Weaver Sr.
Magistrate Steven A. Larson

JUDGMENT ENTRY

{¶ 1} On June 22, 2009, the magistrate issued a decision recommending judgment in favor of plaintiff.

{¶ 2} Civ.R. 53(D)(3)(b)(i) states, in part: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i).” Defendant timely filed objections and a transcript of the trial. Plaintiff timely responded to the objections.

{¶ 3} At all times relevant, plaintiff was an inmate in the custody and control of defendant at the North Central Correctional Institution pursuant to R.C. 5120.16. On January 25, 2007, plaintiff was working as a clerk for Correction Sergeant Yolanda Holmes.¹ Plaintiff was sitting at a desk in Holmes’ office using a typewriter when a wall-mounted shelving unit fell and struck his head and right shoulder. The magistrate found that defendant failed to exercise reasonable care in the construction of the shelving unit,

¹The magistrate incorrectly referred to Holmes as “Harris.”

that the back of the unit was improperly attached to the main part of the unit and that, as a result, it fell off the wall and struck plaintiff.

{¶ 4} Defendant asserts two objections. First, defendant argues that it lacked notice that the shelving unit presented a hazard and that it is therefore not liable for plaintiff's injury. Both of defendant's employees who had supervisory authority over the carpentry shop where the unit was fabricated testified that they did not personally inspect the unit before it was installed. Based upon the magistrate's finding that defendant failed to exercise reasonable care in the construction of the unit and the testimony from defendant's employees that they did not inspect the unit, the court finds that defendant should have known that it was improperly constructed before it was installed.

{¶ 5} Second, defendant asserts that plaintiff knew or should have known that the bookshelf was a hazard and failed to take sufficient steps to ensure his own safety. Plaintiff testified that when he saw the unit being installed, he did not think that it was constructed properly. Plaintiff also testified that he heard a "creak" come from the unit about an hour before it fell on him. Plaintiff stated that he had a conversation with Holmes about the creak, but that he continued to sit beneath the unit and do his work. While plaintiff has a duty to take reasonable steps to ensure his own safety, plaintiff was performing work for defendant and was not free to simply leave the area.

{¶ 6} Upon review of the record, the magistrate's decision and the objections, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own, including findings of fact and conclusions of law contained therein. Judgment is rendered in favor of plaintiff. The case will be set for trial on the issue of damages.

CLARK B. WEAVER SR.
Judge

cc:

Jennifer A. Adair
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Richard F. Swope
6504 East Main Street
Reynoldsburg, Ohio 43068-2268

Magistrate Steven A. Larson

MR/cmd
Filed September 3, 2009
To S.C. reporter October 6, 2009