

[Cite as *Speer v. Ohio Dept. of Rehab. & Corr.*, 1994-Ohio-575.]

IN THE COURT OF CLAIMS OF OHIO

THERESA K. SPEER, et al. :
 :
 Plaintiffs : CASE NO. 91-01048
 :
 v. : DECISION
 :
 DEPARTMENT OF REHABILITATION : Judge Russell Leach
 AND CORRECTION :
 :
 Defendant :

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This action was remanded to this court from the Tenth District Court of Appeals on the sole issue of whether the surveillance from the rest room ceiling of plaintiff, Theresa Speer, was an invasion of her privacy. While the appeals court did state that reasonable surveillance of employees in an institutional setting was an acceptable investigative tool, they found that the administrative acts of an employee positioning himself in a rest room ceiling for over seven hours is not defensible as a matter of policy.

The intrusion into a person's seclusion is recognized as one of four separate branches of tortious invasion of privacy.

Sustin v. Fee (1982), 69 Ohio St. 2d 143. Section 652 A of the Restatement of Torts 2d provides that the right of privacy is

invaded by the "unreasonable intrusion upon the seclusion of another." Section 652 B of the Restatement of Torts 2d establishes the scope of a person's liability for intrusion into another's seclusion as follows: "One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person."

In *Housh v. Peth* (1956), 165 Ohio St. 35, a cause of action for invasion of privacy was recognized in paragraph two of the syllabus as, "An actionable invasion of the right of privacy is *** the wrongful intrusion into one's private activities in such a manner as to outrage or cause mental suffering, shame or humiliation to a person of ordinary sensibilities."

Consistent with the August 12, 1993, decision of the Tenth District Court of Appeals and the above cited references and cases, this court finds that Theresa Speer's privacy was violated by the acts of Leroy Payton, as an employee of the Ohio Department of Rehabilitation and Correction, in spying upon her from the ceiling of the staff rest room on February 14, 1989.

While this invasion of Theresa Speer's privacy was a proximate cause of her injury, it is not found to be the only

proximate cause. Testimony from Theresa's treating physician, Dr. Mark Garwood, and her licensed social worker, Ms. Dee Anna Garwood, revealed that the February 12, 1989, incident was only one of the many "stresses" in Theresa's life.

After the February 12, 1989, incident, Theresa continued employment until January 28, 1991, when she went on medical leave and then voluntarily resigned her position at the Madison Correction Institution on March 14, 1991. During December of 1990, Theresa became the patient of Dr. & Ms. Garwood, who were the assigned providers for their medical plan. Testimony and the medical records proved that in addition to the surveillance incident, Theresa had a number of problems in her life that had been present for a period of years. These included prior personal problems, family problems, including the health of her husband as a result of surgery, behavior of her teenage children, and her financial condition due to her husband's loss of employment.

Therefore, this court finds that plaintiff, Theresa Speer, shall be granted judgment in the amount of \$7,500 for the invasion of her privacy arising from the February 12, 1989,

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incident. Plaintiff, Rand Speer, shall receive no compensation as a result of the February 12, 1989, incident.

RUSSELL LEACH
Judge

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Plaintiffs : CASE NO. 91-01048
v. : JUDGMENT ENTRY
DEPARTMENT OF REHABILITATION : Judge Russell Leach
AND CORRECTION :
Defendant :

: : : : : : : : : :

Upon consideration of all the evidence and for the reasons set forth in the decision rendered concurrently herewith, it is ORDERED that judgment is rendered in favor of plaintiff, Theresa Speer, in the amount of \$7,500. Court costs are assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

RUSSELL LEACH
Judge

Entry cc:

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