

Hutchinson (1981), 67 Ohio St.2d 282, 285. Ohio law imposes a duty of reasonable care upon the state to provide for its prisoners' health, care and well-being. *Clemets v. Heston* (1985), 20 Ohio App.3d 132, 136. Therefore, defendant owed a duty of reasonable care to ensure that prescribed flex cuffs were properly applied to plaintiff's wrists.

{¶4} Plaintiff testified that defendant breached its duty of reasonable care on several occasions due to excessive tightness of the flex cuffs. Specifically, plaintiff testified that he complained on numerous occasions to the transporting COs, a CO at CMC, a nurse at CMC, and additional staff at GCI upon his return. However, the testimony of the COs who participated in the transport confirms that whenever plaintiff complained, a CO responded by placing a finger in between the cuff and plaintiff's wrists to verify that the cuffs were not too tight. Furthermore, CO Phillip Simmons, who has been employed as a CO by defendant for 14 years, testified that plaintiff refused metal cuffs when they were offered to him after his medical examination at CMC. Additionally, inmate James Gwinn, who was transported along with plaintiff, testified that he also wore flex cuffs; that during his examination, he complained about the flex cuffs; and that subsequently he was given metal cuffs. CO Kenneth Evett, who has been employed by defendant for approximately 13 years, corroborated the testimony of CO Simmons and inmate Gwinn. CO Evett testified that he accompanied plaintiff during his medical examination and that plaintiff made no complaints to the examining physician. CO Evett also testified that plaintiff was offered and refused metal cuffs. Thus, upon review of the testimony and evidence presented, the court finds that defendant repeatedly checked the tightness of plaintiff's flex cuffs, and that defendant offered to replace plaintiff's flex cuffs with metal cuffs. Accordingly, the court concludes that plaintiff has failed to prove that defendant breached its duty of reasonable care.

{¶5} Plaintiff also has failed to prove that the use of flex cuffs proximately caused any alleged injuries. CO Simmons testified that he noticed blisters on plaintiff's wrists, but he concluded that they were self-inflicted as a result of friction caused by excessive movement by plaintiff. Furthermore, CO Simmons testified that during the trip to CMC, plaintiff spent time turning his wrists in a manner which would create friction and cause blisters. Based on the evidence presented, plaintiff has failed to prove that excessive tightness of the flex cuffs caused any injuries.

{¶6} In the final analysis, the evidence fails to establish that defendant breached any duty of care owed to plaintiff under the circumstances of this case or, in the alternative, that the alleged breach of duty proximately caused plaintiff's injuries. Accordingly, judgment is recommended for defendant.

{¶7} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the court's adoption of any finding or conclusion of law contained in the magistrate's decision unless the party timely and specifically objects to that finding or conclusion as required by Civ.R. 53(E)(3).*

STEVEN A. LARSON
Magistrate

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MAGISTRATE DECISION

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