

[Cite as *Fair v. Ross Correctional Inst.*, 2004-Ohio-3489.]

IN THE COURT OF CLAIMS OF OHIO

MARK A. FAIR :
Plaintiff :
v. : CASE NO. 2003-10538-AD
ROSS CORRECTIONAL INTITUTION : MEMORANDUM DECISION
Defendant :

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FINDINGS OF FACT

{¶1} 1) On July 11, 2003, plaintiff, Mark D. Fair, an inmate incarcerated at defendant, Ross Correctional Institution (RCI), reported to the institution complaining of stomach discomfort. RCI medical officer, identified as Dr. James E. Coulter, prescribed a pill medication, Zantac (Ranitidine) to treat plaintiff's ailment. Plaintiff ingested the Ranitidine tablets as prescribed. Plaintiff later complained of headaches and chest pain. Additionally, plaintiff stated he developed a rash on his neck and chest. Plaintiff contended the Ranitidine caused the referenced maladies of headache, chest pain, and skin rash. When plaintiff complained of these physical side effects on August 12, 2003, the prescription for Ranitidine was discontinued.

{¶2} 2) Plaintiff asserted he was never informed about any potential side effects related to taking Ranitidine. Plaintiff further asserted he received no warning at all concerning potential physical effects associated with ingesting the medication

prescribed on July 11, 2003. Plaintiff filed this complaint declaring, "I'm sueing [sic] for medical malpractice negligence punitive damages the pain to my chest that the medication cost me the rash red and black bumps all over my chest and neck the headaches all day the scars on my chest and neck emotional distress and mental anguish." Plaintiff seeks damages in the amount of \$2,500.00, the maximum amount recoverable under R.C. 2743.10. Plaintiff was excused from paying the requisite \$25.00 filing fee.

{¶3} 3) Defendant submitted a written statement from plaintiff's treating physician, Dr. James E. Coulter, regarding the allegations raised in plaintiff's complaint. Dr. Coulter explained, plaintiff "has a long history" of being afflicted with skin rashes, both prior to and subsequent to receiving Ranitidine for a stomach complaint. The rash plaintiff displayed on August 12, 2003 was represented as a follicular rash and not classified as an allergic rash associated with ingestion of medication.

{¶4} 4) Defendant argued plaintiff has failed to offer sufficient proof to establish his medical treatment fell below the standard of care for medical professionals. Defendant also contended plaintiff failed to provide proof that his listed ailments were caused by medical negligence. Defendant asserted plaintiff has not established a prima facie case of medical negligence due to plaintiff's failure to produce requisite expert opinion on the issue of medical malpractice. See *Bruni v. Tatsumi* (1976), 46 Ohio St. 2d 127.

{¶5} 5) Plaintiff insisted he suffered physical problems as a proximate cause of malpractice on the part of RCI medical personnel. Plaintiff did not produce any expert opinion to substantiate his allegations.

CONCLUSIONS OF LAW

{¶6} In order to prevail, plaintiff must prove, by a

preponderance of the evidence, that defendant owed him a duty, that defendant breached that duty, and that defendant's breach proximately caused his injuries. *Strother v. Hutchinson* (1981), 67 Ohio St. 2d 282. 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. Reasonable or ordinary care is that degree of caution and foresight which an ordinarily prudent person would employ in similar circumstances. *Smith v. United Properties, Inc.* (1965), 2 Ohio St. 2d 310. The state is not an insurer of inmate safety. See *Williams v. Ohio Dept. of Rehab. & Corr.* (1991), 61 Ohio Misc. 2d 699.

{¶7} Plaintiff has failed to show defendant breached any duty of care owed to him by prescribing medication. In fact, plaintiff has failed to offer sufficient evidence to establish his physical complaints were caused by ingesting prescribed medication. Plaintiff cannot produce evidence to even suggest the origin of his physical problems.

{¶8} Additionally, plaintiff has not submitted any evidence to prove he suffered an allergic reaction to prescribed medication or at any time was subjected to substandard medical treatment. Plaintiff has not proven his condition was exacerbated by the doing of some particular thing or things that a physician or medical professional of ordinary skill, care, and diligence would not have done under like circumstances, or by the failure or omission to act in a manner such a physician or medical professional would have acted under like or similar conditions or circumstances, and that the injury complained of was the result of doing or failing to do some one or more of such particular acts. *Bruni, id.* Furthermore, plaintiff's claims concerning the exacerbation of his condition and physical health are grounded as medical claims. The proof offered

in medical claims must be established through expert testimony. *Bruni*, id. Plaintiff has failed to offer sufficient proof to show his condition was caused by any negligent act or omission on the part of defendant's personnel.

{¶9} Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant.

Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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