

the cell door. However, Hatfield did not notice that plaintiff was still wearing the leg irons. Hatfield left the area and then returned to plaintiff's cell several minutes later after an inmate porter informed him that plaintiff was wearing leg irons. Hatfield elected to escort plaintiff to range-one to remove the leg irons. Hatfield testified that he replaced the handcuffs and belly strap on plaintiff and that plaintiff began to walk "at a quick pace" towards the stairs as Hatfield closed the cell door. Hatfield estimated that he was walking five feet behind plaintiff when plaintiff slipped and fell while descending the stairs. Plaintiff was subsequently taken to the institution infirmary for treatment.

{¶ 4} In order for plaintiff to prevail upon his claim of negligence, he must prove by a preponderance of the evidence that defendant owed him a duty, that it breached that duty, and that the breach proximately caused his injuries. *Armstrong v. Best Buy Company, Inc.*, 99 Ohio St.3d 79, 81, 2003-Ohio-2573, citing *Menifee v. Ohio Welding Products, Inc.* (1984), 15 Ohio St.3d 75, 77. Ohio law imposes upon the state a duty of reasonable care and protection of its inmates; however, this duty does not make defendant the insurer of inmate safety. *Mitchell v. Ohio Dept. of Rehab. & Corr.* (1995), 107 Ohio App.3d 231, 235. Once the state becomes aware of a dangerous condition it must take reasonable caution to avoid harm to an inmate. *Harwell v. Grafton Correctional Inst.*, Franklin App. No. 04AP-1020, 2005-Ohio-1544, at ¶11. However, an inmate also has the responsibility to use reasonable care to ensure his own safety. Id.

{¶ 5} Plaintiff contends that defendant breached the duty of care owed to him in that Hatfield's order requiring him to descend the stairs while fully restrained created a foreseeable and

unreasonable risk of harm, and that defendant was negligent in allowing such practice.¹

{¶ 6} There was conflicting testimony regarding the procedure that was used to return plaintiff to his cell. Plaintiff testified that Johnson ordered him to return to his cell when he arrived at R-Block. Plaintiff also testified that Hatfield apparently did not notice that plaintiff was wearing leg irons and that Hatfield did not hear him when he yelled to Hatfield about the leg irons. Plaintiff acknowledged that an Ohio State Highway Patrol trooper interviewed him while he was being treated in the infirmary and that he told the trooper that he had slipped on the stairs.

{¶ 7} In contrast to plaintiff's testimony, Johnson testified that he followed defendant's standard procedure when he ordered plaintiff to remain in the "sitting area" on the lower range. According to Johnson, he ordered plaintiff to wait before removing the leg irons because he had to assist a staff member who had arrived to interview other inmates who resided in R-Block. Johnson testified that plaintiff disobeyed his direct order when he left the sitting area and walked to the upper range without an escort. Johnson wrote a conduct report that charged plaintiff with disobeying a direct order and Johnson testified that plaintiff refused to sign the report. (Defendant's Exhibit A.) Johnson also testified that he did not see plaintiff fall and that he learned of the incident when he heard Hatfield call for him and then observed plaintiff lying on the stairs. Johnson further testified that when

¹Although plaintiff testified that he "felt a hand" on his back before he fell and that Hatfield threatened to make his life "a living hell" unless he claimed that he slipped and fell, plaintiff also informed the court that he was pursuing only a negligence claim.

he asked plaintiff what happened, plaintiff replied that he had slipped and was not pushed.

{¶ 8} Ellen Myers, the warden's administrative assistant, corroborated Johnson's testimony that he ordered plaintiff to remain in the sitting area. Myers testified that she recognized plaintiff when he was escorted into R-Block just prior to the incident and that she heard a CO order plaintiff to have a seat while the CO left to get an inmate that Meyers needed to interview. Myers saw plaintiff sit down on the bench but she did not observe what he did thereafter.

{¶ 9} Plaintiff's trial testimony also contradicted his prior statements to defendant's employees regarding the cause of his fall. Amy Weiss, a nurse who worked in the LeCI infirmary, testified that she discussed the incident with plaintiff and that she did not recall plaintiff alleging that a CO caused him to fall.

On June 29, 2004, April Barr, the LeCI Inspector of Institutional Services, conducted an interview with plaintiff during which he stated that he tripped and fell on the stairs. Barr testified that plaintiff specifically told her that he was not pushed before he fell. Although plaintiff declined to provide Barr with a written statement, he allowed Barr to use a statement that he had written two days earlier wherein he stated that he slipped on a step and was not pushed. (Defendant's Exhibit D.) Barr's investigation report also notes that several inmates who witnessed plaintiff's fall stated that he was not pushed. On July 14, 2004, Barr interviewed plaintiff again after he alleged that Hatfield had pushed him down the stairs.

{¶ 10} In reviewing the testimony and evidence in this case, the court does not find plaintiff's version of the incident to be

credible. The inconsistency in plaintiff's accounts of his own fall adversely impacted his credibility. Additionally, the court was not persuaded by plaintiff's testimony that he initially made false statements regarding the incident because he was afraid to implicate Hatfield.

{¶ 11} Furthermore, the trial testimony did not support plaintiff's assertion that defendant's practice that required fully restrained inmates to traverse the stairs was unreasonably dangerous. Corrections Major George Crutchfield, the Chief Security Supervisor at LeCI, testified regarding defendant's escort procedures for inmates who were confined in the segregation unit. Crutchfield explained that segregation inmates who were escorted outside of the unit were required to wear full restraints, including handcuffs, a belly band, and leg irons. According to Crutchfield, a fully-restrained inmate is able to move his hands in a manner that allows him to hold onto the stairway handrail and Crutchfield testified that inmates use the stairs while wearing leg restraints "every day." Crutchfield explained that the proper procedure for removing leg irons required Hatfield to either escort plaintiff to the bench on the lower range or to enlist the help of another CO because Hatfield would have placed himself in a vulnerable position if he had bent down to remove the leg irons while plaintiff was standing. Crutchfield testified that he was not aware of any other incident involving an inmate falling on the stairs and that plaintiff was not permitted to walk to his cell without an escort.

{¶ 12} Crutchfield's testimony was consistent with both Johnson's and Hatfield's testimony that they were not aware of any other incident involving an inmate who fell on the stairs in R-

Block and that inmates routinely negotiated the stairs between ranges while restrained in leg irons. Considering the demanding security measures needed for high-security inmates such as plaintiff, the preponderance of the evidence does not establish that defendant's practice of allowing inmates to descend the stairway while fully restrained was unreasonably dangerous under the circumstances. See *Williams v. Ohio Dept. of Rehab. & Corr.* (1991), 61 Ohio Misc.2d 699, 704. Furthermore, the testimony and evidence showed that, even while fully restrained, plaintiff would have been able to hold onto the handrail while walking on the stairs.

{¶ 13} For the foregoing reasons, the court concludes that plaintiff has failed to prove his claim by a preponderance of the evidence. Accordingly, judgment is recommended in favor of defendant.

{¶ 14} *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

Entry cc:

Joseph E. Adams, #428-942
Lebanon Correctional Institution
P.O. Box 56

Plaintiff, Pro se

Case No. 2004-10281

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MAGISTRATE DECISION

Lebanon, Ohio 45036

Velda K. Hofacker Carr
Assistant Attorney General
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215-3130

Attorney for Defendant

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