

Court of Claims of Ohio

The Ohio Judicial Center
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DAVID WASHINGTON

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, et al.

Defendants

Case No. 2006-03117

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

MAGISTRATE DECISION

{¶ 1} Plaintiff brought this action alleging negligence. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability.

{¶ 2} At all times relevant, plaintiff was an inmate in the custody and control of defendant¹ at the Pickaway Correctional Institution (PCI) pursuant to R.C. 5120.16. On August 16, 2004, plaintiff and other inmates boarded a bus to travel to Corrections Medical Center (CMC). After the bus left PCI, it pulled into a sally port at the nearby Correctional Reception Center (CRC) to pick up additional inmates. Once the CRC inmates were aboard, the driver, Roosevelt Green, attempted to back the bus out of the sally port and through a gate. However, as the bus maneuvered backward, it collided with a parked truck. Plaintiff alleges that Green was negligent in his operation of the bus and that he suffered injury as a result.

¹The term “defendant” shall hereinafter refer to the Ohio Department of Rehabilitation and Correction.

{¶ 3} Defendant argues both that the accident was a “minor fender-bender” such that it did not breach any duty of care owed to plaintiff, and that plaintiff cannot establish that the accident was the proximate cause of his alleged injuries.

{¶ 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 defendant’s acts or omissions resulted in a breach of that duty, and that the breach proximately caused him to suffer injury. *Armstrong v. Best Buy Co., 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. *McCoy v. Engle* (1987), 42 Ohio App.3d 204, 207-208. Reasonable care has been defined as “that degree of caution and foresight an ordinarily prudent person would employ in similar circumstances.” *McElfresh v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 04AP-177, 2004-Ohio-5545, ¶16. The state, however, is not an insurer of the safety of inmates, and the special relationship between the state and its inmates does not expand or heighten the duty of reasonable care. *Id.*

{¶ 5} Green testified that he backed the bus out of the sally port slowly and checked his mirrors while doing so, but failed to notice the truck until the collision occurred. Green stated that he did not feel any impact from the collision. According to Green, the bus had some pre-existing damage to its rear bumper but did not appear to have sustained any new damage in the collision.

{¶ 6} CRC Storekeeper Diane Houston was seated in the truck, which she was using to make deliveries around the institution that morning. Houston testified that she parked the truck on the side of the road with its engine off several minutes before the accident and was waiting for the bus to leave so that she could make a delivery from the sally port. Houston stated that the bus was moving about two miles per hour when the collision occurred and that it caused some damage to the front bumper of the truck.

{¶ 7} Plaintiff testified that he was wearing shackles on his legs, and that his hands were shackled to a belly chain when the collision occurred and that his seat on the bus was not equipped with a safety belt. According to plaintiff, the impact rocked him back and forth in the seat, resulting in back and neck pain and a headache.

{¶ 8} Similarly, inmate Albert Smith,² who was seated several rows behind plaintiff, testified that the impact caused him to be thrown about his seat. Smith stated that the bus was moving at “a nice little clip” when the collision occurred.

{¶ 9} Following the collision, Green drove the bus back into the sally port and let off all the inmates. Defendant’s employees asked the inmates whether any of them were injured and plaintiff and Smith replied in the affirmative. A nurse at CRC then examined plaintiff and made a report that noted his complaints of back and neck pain and recommended that he be seen by a physician. (Defendant’s Exhibit A.) Later that day, plaintiff was transported back to PCI and underwent another examination by a nurse there. According to the report from this examination, plaintiff complained of swelling on his back, elbows, knees, and shoulders. (Plaintiff’s Exhibit 1.) The report also reflects that the nurse scheduled an x-ray of plaintiff’s spine and offered him Tylenol.

{¶ 10} Plaintiff testified that he declined the Tylenol due to the fact that he was already taking a stronger pain reliever for arthritis. Plaintiff acknowledged that his arthritis was severe and had caused him significant pain for many years, but he credibly testified that the pain that he suffered from the collision was distinct from any pre-existing condition.

{¶ 11} Based upon the totality of the evidence, the court finds that Green failed to exercise reasonable care while backing the bus out of the sally port and that plaintiff suffered injury as a result. Accordingly, judgment is recommended in favor of plaintiff on the issue of liability.

²Albert Smith filed Case No. 2006-03125 in relation to the same incident.

A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).

STEVEN A. LARSON
Magistrate

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Magistrate Steven A. Larson

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