

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
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www.cco.state.oh.us

FRED O. WILLIAMS

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2007-02807

Judge Joseph T. Clark
Magistrate Steven A. Larson

MAGISTRATE DECISION

{¶ 1} On January 9, 2008, the court issued a judgment granting plaintiff's motion for summary judgment and rendering judgment in favor of plaintiff on the issue of liability. The case proceeded to trial on the issue of damages.

{¶ 2} At all times relevant, plaintiff was an inmate in the custody and control of defendant at the Ross Correctional Institution (RCI) pursuant to R.C. 5120.16. On February 16, 2006, plaintiff was injured while being transported in a bus from RCI to the Corrections Medical Center (CMC). While the bus was passing through the CMC sally port, the outside gate of the port closed prematurely and struck the rear portion of the bus. The court determined that defendant's employees were negligent in the operation of both the bus and the gate and that plaintiff was injured as a result.

{¶ 3} Plaintiff testified that on the day of the incident he was going to CMC so that his injured left arm could be placed in a cast. According to plaintiff, his ankles were shackled and his non-injured arm was placed in a handcuff and attached to a belly chain. Plaintiff testified that when the gate struck the bus, he heard a "big boom" and he

was thrown into the aisle of the bus. Plaintiff stated that he was unable to brace himself for the fall due to his restraints and injured arm. Plaintiff testified that since the incident he has experienced neck and back pain, that he has been on a pain medication regimen, and that he has been restricted to "light duty" jobs around the institution. However, plaintiff admitted that he had suffered from chronic back pain prior to the incident.

{¶ 4} James Coulter, M.D. treated plaintiff soon after the February 16, 2006 incident. Dr. Coulter testified that he examined plaintiff seven times between February 23, 2006, and June 16, 2006, and that plaintiff complained of back and neck pain on six of those occasions. On February 23, 2006, Dr. Coulter diagnosed plaintiff with a muscle spasm in the left side of his neck and at trial Dr. Coulter opined that such an injury could have been caused by the incident at CMC on February 16, 2006.

{¶ 5} James McWeeney, M.D. treated plaintiff both before and after plaintiff was injured in the incident at CMC. Dr. McWeeney testified that he had examined plaintiff numerous times during 2006 and 2007, often because plaintiff complained of pain in his lower back. According to Dr. McWeeney, plaintiff underwent x-rays, EMG tests, MRI tests, and other neurological evaluations to diagnose his pain. Dr. McWeeney testified that plaintiff's pain was largely "myofascial," or muscular, in nature and largely due to arthritic changes brought on by age. Dr. McWeeney further testified that he suspected plaintiff of "malingering" because he did not act or move about as if he were in pain. Dr. McWeeney added that pain is subjective and it is difficult to objectively diagnose its severity.

{¶ 6} Based upon the totality of the evidence, the court finds that plaintiff suffers some pain on a daily basis as a result of the incident but that it is neither debilitating nor severe. The court concludes that plaintiff's total damages amount to \$7,000. Accordingly, judgment is recommended in favor of plaintiff in the amount of \$7,025 which includes the \$25 filing fee.

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

cc:

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Magistrate Steven A. Larson

MR/cmd
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