

**2007-Ohio-5421**  
**Martin v. Ohio Dept. of Rehab. & Corr.**

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[Cite as Martin v. Ohio Dept. of Rehab. &amp; Corr., 2007-Ohio-5421]

SHAWN MARTIN, Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, Defendant

Case No. 2003-04899

Court of Claims of Ohio

January 1, 2007

MAGISTRATE DECISION

Judge J. Craig Wright

Magistrate Anderson M. Renick

{¶1} This case was previously tried to the court on the issue of liability. The court subsequently issued a decision in favor of plaintiff to the extent that plaintiff's recovery should be reduced by 40 percent to account for his own contributory negligence.

{¶2} On July 10, 2002, plaintiff was an inmate working in the kitchen at the Belmont Correctional Institution (BeCI) when he sustained burns to his hands, arms, legs, and buttocks as a result of hot water that spilled from a plastic container. Plaintiff was initially treated at BeCI inmate health services and later transported for further treatment to both The Ohio State University Hospital (OSU) and the Corrections Medical Center.

{¶3} In support of his claim for damages, plaintiff presented his medical records, the report of his expert, Jeremy Burdge, M.D., the testimony of his wife, Laverne Martin, and his own testimony.

{¶4} Plaintiff testified concerning the medical treatment that he received following the incident. According to plaintiff, defendant's medical staff did not treat him in a timely manner. Plaintiff was especially critical of the medical care that he received after he returned to BeCI following his treatment at OSU. Plaintiff testified that the medication he received was inadequate to relieve the severe pain that he experienced. Laverne Martin testified that she observed the difficulty that plaintiff had while performing daily activities.

{¶5} In his report, Dr. Burdge states that plaintiff sustained second degree burns to his hands, feet, and buttocks. During his examination, Dr. Burdge observed that plaintiff's burns had healed and that there was "some cosmetic impairment" including "hyperpigmentation and depigmentation" on plaintiff's hands and feet. Although Dr. Burdge noted plaintiff's complaint "of diffuse areas of itching and burning in all of his scars," he determined that the burn scars did not cause "any functional impairment."

{¶6} Defendant presented the testimony of Marlene Haught, R.N., a nurse who had treated plaintiff at BeCI. Haught testified that the attending physician assigned plaintiff to a room in the BeCI infirmary that was equipped with an air purification system to reduce the risk of infection to plaintiff's wounds. According to both Haught and institution medical records, plaintiff both became upset when he was not allowed to return to the dormitory and occasionally refused treatment or was otherwise uncooperative with defendant's medical staff.

{¶7} Defendant offered the report of its expert, Greg Morrison, M.D., wherein Dr. Morrison stated that his examination of plaintiff revealed evidence of second degree burns. Dr. Morrison observed skin pigment changes in the

scarred areas on plaintiff's ankles, buttocks, and wrists. Although he noted plaintiff's complaint of occasional skin irritation around both ankles, Dr. Morrison opined that plaintiff would not suffer any impairment or disability "in terms of long term skin durability." From his review of plaintiff's medical records, Dr. Morrison concluded that plaintiff received "routine medical care" that was "at or above the minimal standard of care for treatment of burn injuries." (Defendant's Exhibit A-1.)

{18} Based upon the totality of the testimony and evidence, the court finds that plaintiff endured significant pain for several weeks following the incident and that he continued to experience discomfort until his wounds had healed. Although the experts for both parties agreed that plaintiff's scars did not result in any functional impairment, the court finds that plaintiff has permanent scarring in the burned areas. The court concludes that plaintiff's total damages in this case amount to \$200,000, which include, but are not limited to, past and future pain and suffering. Pursuant to R.C. 2315.19, plaintiff's damages shall be reduced by \$80,000, which represents 40 percent attributed to his contributory negligence. Accordingly, judgment is recommended in favor of plaintiff in the amount of \$120,025 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).

ANDERSON M. RENICK, Magistrate

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