

**IN THE COURT OF CLAIMS OF OHIO**

LATANGIA ANDERSON

Plaintiff

v.

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

Case No. 2024-00121AD

Deputy Clerk Holly True Shaver

MEMORANDUM DECISION

{¶1} Latangia Anderson (“plaintiff”), an inmate, filed a complaint against defendant, Ohio Department of Rehabilitation and Correction (“ODRC”). Plaintiff related on November 17, 2022, plaintiff was transported from the Franklin Medical Center (“FMC”) to defendant’s Ohio Reformatory for Women (“ORW”). During transport, plaintiff alleges that defendant’s employee operated the vehicle in a reckless manner which resulted in injuries to plaintiff’s head and knee. Plaintiff further states that her hips and pelvis went through hypertrophic changes, and that she now has sclerosis due to a lack of medical attention.

{¶2} Plaintiff seeks damages in the amount of \$10,000.00. Plaintiff submitted the \$25.00 filing fee.

{¶3} Defendant submitted an investigation report denying liability in this matter. Defendant argues that plaintiff did not file any grievances from November 16, 2022 to December 31, 2022. Defendant further states that plaintiff was seen by medical staff at ORW on November 17, 2022, but plaintiff did not report any injuries as having occurred from the transportation from FMC to ORW. On December 6, 2022, plaintiff underwent another routine appointment and again did not report any injuries related to the November 17, 2022 transportation.

{¶4} On April 12, 2024, plaintiff filed a response to defendant’s investigation report wherein plaintiff requests that the court issue subpoenas to inmate Kathy Smith, “K. Morrow,” Nurse Osborne-Hisang, Nancy Smith, Karen Stanforth, Doctor Singhal,

“nurse practitioner [A]djibade[,] M. Maldunado[,] [and] Jason Heard.” Plaintiff also requests that the court issue a subpoena for plaintiff’s November 17, 2023 [sic] “x-ray results.” Additionally, on May 28, 2024, plaintiff filed a second motion for the court to subpoena inmate Kathy Smith.

{¶5} As an initial matter, R.C. 2743.10(A), in pertinent part states: “Civil actions against the state for ten thousand dollars or less shall be determined administratively . . .” In addition, R.C. 2743.10(C) states, in part: “Rules of evidence shall not be applicable in the determination. Procedures shall be governed by rules promulgated by the clerk . . .” L.C.C.R. 8(E) states: “Discovery procedures shall not be initiated in administrative determinations without the permission of the clerk.” Accordingly, plaintiff’s motions which request that the court issue subpoenas for individuals to testify or for defendant to produce documents, which the court construes as requests for discovery, are DENIED. No hearing will be held in this case.

{¶6} To prevail in a claim for negligence, plaintiff must prove, by a preponderance of the evidence, that defendant owed plaintiff a duty, that defendant breached that duty, and that defendant’s breach proximately caused plaintiff’s damages. *Armstrong v. Best Buy Co., Inc.*, 2003-Ohio-2573, ¶ 8, citing *Menifee v. Ohio Welding Prod., Inc.*, 15 Ohio St.3d 75, 77 (1984).

{¶7} Whether a duty exists is a question of law to be decided by the court, while breach of such duty is a question of fact. *Snay v. Burr*, 2021-Ohio-4113, ¶ 14, citing *Mussivand v. David*, 45 Ohio St.3d 314, 318, (1989).

{¶8} It is not clear whether plaintiff is asserting a claim of medical malpractice related to plaintiff’s medical exams at ORW, or mere negligence. To establish a claim of medical malpractice, plaintiff “must show the existence of a standard of care within the medical community, breach of that standard of care by the defendant, and proximate cause between the medical negligence and the injury sustained.” *Taylor v. McCullough-Hyde Mem. Hosp.*, 116 Ohio App.3d 595, 599 (12th Dist. 1996); citing *Bruni v. Tatsumi*, 46 Ohio St.2d 127, 131-132 (1976).

{¶9} The exception to that rule is “in cases where the nature of the case is such that the lack of skill or care of the physician and surgeon is so apparent as to be within the comprehension of laymen and requires only common knowledge and experience to

understand and judge it \*\*\*.” *Bruni* at 130. However, the exception is limited in scope and “[r]elatively few courts in Ohio have found the common knowledge exception applicable so as to obviate the need for expert witness testimony on the malpractice issue.” *Buerger v. Ohio Dept. of Rehab. & Corr.*, 64 Ohio App.3d 394, 399 (10th Dist. 1989). Plaintiff’s allegation of medical negligence is not the type for which this exception would apply.

{¶10} In *Buerger*, the Tenth District Court of Appeals found the *Bruni v. Tatsumi* standard applicable to a claim of medical malpractice brought by an inmate. When a plaintiff is alleging substandard medical treatment, expert medical opinion must be provided to establish a prima facie case. Plaintiff may not simply rest upon allegations of medical negligence as stated in her complaint. See *Saunders v. Cardiology Consultants, Inc.*, 66 Ohio App.3d 418, 420 (1st Dist. 1990); *Hoffman v. Davidson*, 31 Ohio St.3d 60, 61 (1987); *Guth v. Huron Road Hospital*, 43 Ohio App.3d 83, 84 (8th Dist. 1987). In the present claim, plaintiff has failed to produce expert medical opinion regarding her hips and pelvis going through hypertrophic changes resulting in sclerosis.

{¶11} Plaintiff has also failed to produce expert medical opinion regarding plaintiff’s allegation that she received inadequate medical treatment. Plaintiff has provided no documentation of any injury. Thus, the court finds that plaintiff has failed to prove, by a preponderance of evidence, her claim for medical negligence. The court further finds that plaintiff has failed to prove that defendant breached any duty it owed to her during her transportation from FMC to ORW.

{¶12} Finally, to the extent plaintiff asserts constitutional claims such as a 42 U.S.C. § 1983 claim for deliberate indifference, this court lacks subject-matter jurisdiction over alleged violations of constitutional rights. *Cotten v. Ohio Dept. of Rehab. & Corr.*, 2014-Ohio-2619, ¶ 18 (10th Dist.), citing *Guillory v. Ohio Dept. of Rehab. & Corr.*, 2008-Ohio-2299 (10th Dist.), supra at ¶ 12. It is well settled that such claims are not actionable in the Court of Claims. *Young v. State*, 2018-Ohio-2604, ¶ 49 (10th Dist.).

{¶13} Therefore, judgment is rendered in favor of defendant.

Plaintiff

Deputy Clerk Holly True Shaver

v.

ENTRY OF ADMINISTRATIVE  
DETERMINATION

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

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{¶14} 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. All pending motions are DENIED. Court costs are assessed against plaintiff.

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HOLLY TRUE SHAVER  
Deputy Clerk