

conditions approaching 110°. Consequently, plaintiff filed this complaint seeking to recover \$2,500.00 in damage for pain and suffering associated with a physical condition plaintiff attributes to negligent acts or omissions on the part of defendant. Plaintiff submitted the filing fee with the complaint. Essentially, plaintiff claimed he got an infection from unsterile barber clippers used to cut his hair. Plaintiff argued defendant's staff did not inspect the barber clippers and therefore did not discover the clippers were dangerous.

{¶3} Defendant denied any liability in this matter. Defendant argued plaintiff has failed to offer sufficient proof he suffered any injury as a result of any negligent act or omission on the part of ManCI staff. Defendant submitted a statement from Shannon Thompson, an inmate barber, who observed plaintiff's condition. Thompson related he is a barber in the same housing unit where plaintiff was incarcerated. Thompson noted plaintiff "had a severe skin problem on his scalp." Due to this unidentified skin problem Thompson stated he refused to cut plaintiff's hair with regular barber equipment and therefore, Thompson's personal barber clippers were used to cut plaintiff's hair. Thompson explained he uses disinfectant plus soap and water to clean his personal barber clippers. Thompson maintained he has never suffered a skin reaction from using the barber clippers on himself.

{¶4} Evidence submitted by defendant establishes plaintiff went to the ManCI infirmary on May 16, 2002 complaining of a scalp infection about the occipital and crown area of his head. Plaintiff stated he had experienced this scalp condition for two to three weeks prior to his visiting the institution infirmary. Plaintiff was treated with an antibiotic ointment for his condition.

{¶5} On May 20, 2002, plaintiff again sought medical care at the ManCI infirmary complaining of multiple boils on his scalp. Blood work and other diagnostic tests were ordered.

{¶6} On June 7, 2002, plaintiff was transported to the emergency department of Mansfield Hospital where he was treated for the swelling in the back of his head. Medical records document plaintiff had a normal body temperature. Upon examination, plaintiff did appear to have minimal "cystic drainage with swelling at the base of the occiput." Swelling was observed at the back of plaintiff's head through the area of his neck. Plaintiff displayed "decreased range of motion of his neck," which was probably due to pain. The

treating physician at Mansfield Hospital, Dr. Joseph J. Bocka, diagnosed plaintiff with an “infected cyst of occiput with cellulitis.” Dr. Bocka surgically drained the cyst on plaintiff’s head and packed the wound formed by the surgical procedure. Pain medication was administered and plaintiff was discharged after being prescribed an antibiotic ointment as topical treatment. Plaintiff was sent back to ManCI with more pain medication.

{¶7} On July 23, and July 31, 2003, plaintiff filed responses to defendant’s investigation report. Plaintiff insisted the cyst on the back of his head developed from a reaction to barber clippers that were not properly disinfected. Plaintiff denied using Shannon Thompson’s personal barber clippers. Plaintiff also insisted he suffered an allergic reaction to antibiotic medication after receiving this treatment from the institution infirmary. Plaintiff reasserted he experienced seizures and had an elevated temperature of 110°. Plaintiff attributes his head cysts to the use of improper disinfectant on barber clippers at the barber shop in his housing unit at ManCI. Plaintiff attributes subsequent unsubstantiated medical problems (seizures and moribund hyperthermia) to inappropriate medication. Plaintiff did not offer any proof to establish his cyst condition was caused by a reaction to disinfected barber clippers. Plaintiff did not produce any evidence to indicate he suffered an allergic reaction to antibiotics.

{¶8} In order to prevail, plaintiff must prove by a preponderance of the evidence that defendant owed him a duty, that defendant breached that duty, and that defendant’s breach proximately caused his injuries. *Strother v. Hutchinson* (1981), 67 Ohio St. 2d 282. Ohio law imposes a duty of reasonable care upon the state to provide for its prisoners’ health, care, and well-being. *Clemets v. Heston* (1985), 20 Ohio App. 3d 132, 136. Reasonable or ordinary care is that degree of caution and foresight which an ordinarily prudent person would employ in similar circumstances. *Smith v. United Properties, Inc.* (1965), 2 Ohio St. 2d 310. The state is not an insurer of inmate safety. See *Williams v. Ohio Dept. of Rehab. & Corr.* (1991), 61 Ohio Misc. 2d 699.

{¶9} Plaintiff has failed to show defendant breached any duty of care owed to him by not inspecting barber clippers which had been disinfected. In fact, plaintiff has failed to offer sufficient evidence to establish his physical condition of cysts under his scalp was even caused by using barber clippers. Plaintiff cannot produce evidence to even suggest

the origin of his physical malady.

{¶10} Additionally, plaintiff has not submitted any evidence to prove he suffered an allergic reaction to prescribed medication or at any time was subjected to substandard medical treatment. Plaintiff has not proven his condition was exacerbated by the doing of some particular thing or things that a physician or medical professional of ordinary skill, care, and diligence would not have done under like circumstances, or by the failure or omission to act in a manner such a physician or medical professional would have acted under like or similar conditions or circumstances, and that the injury complained of was the result of doing or failing to do some one or more of such particular acts. *Bruni v. Tatsumi* (1976), 46 Ohio St. 2d 127. Furthermore, plaintiff's claims concerning the exacerbation of his condition and physical health are grounded as medical claims. The proof offered in medical claims must be established through expert testimony. *Bruni, id.* Plaintiff has failed to offer sufficient proof to show his condition was caused by any negligent act or omission on the part of defendant's personnel.

{¶11} 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. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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8/20

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