

[Cite as *Adkins v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-3963.]

IN THE COURT OF CLAIMS OF OHIO
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RANDALL ADKINS :
Plaintiff : CASE NO. 2004-01397
v. : Judge J. Craig Wright
DEPARTMENT OF REHABILITATION : DECISION
AND CORRECTION :
Defendant :
: : : : : : : : : : : : : : : :

{¶ 1} On March 28, 2005, judgment was rendered in favor of plaintiff on the issue of liability. The court found that defendant was negligent in failing to take prompt action to treat plaintiff's complaints of a sudden blind spot in his left eye. This case was tried to the court on the issue of plaintiff's damages on June 27, 2005. Plaintiff presented his own testimony and the testimony of Lawrence Hadley, Ph.D., a forensic economist. Plaintiff also submitted a report from his treating optometrist, Holbrook Riles, Jr.

{¶ 2} Defendant presented the testimony of David G. Miller, M.D., who qualified as an expert in the area of ophthalmology. Dr. Miller testified that he had examined plaintiff and had prepared a report of his findings. The court finds that Dr. Miller's report succinctly summarizes plaintiff's condition as follows:

{¶ 3} "Mr. Adkins was an inmate at the Madison Correctional Institution when he noted a visual disturbance in his left eye in April, 2001, described as a blind spot in his superior vision. He then noted a loss of central vision in the left eye on or about May 25, 2001, and was eventually diagnosed and treated for a

macula-off retinal detachment on July 10, 2001, at Ohio State University per Dr. Chorich. The initial procedure was scleral buckling but subsequent surgery was required on August 7, 2001, consisting of a vitrectomy, lensectomy and placement of silicone oil. The retina then remained attached and the silicone oil was removed on March 25, 2002.

{¶ 4} "His presenting visual acuity with the macula-off detachment was at hand motions and with the successful surgery, he regained vision with appropriate refractive correction to the 20/70 level per various clinic notes dated 11/4/02, 9/17/03, and 1/19/04.

{¶ 5} "My complete examination findings are enclosed from April 26, 2005. In summary, my exam findings show the visual acuity currently measures with correction at 20/20 in the right eye and without correction at 20/200 in the left eye for distance. Near vision measures without correction at 20/400 in the left eye. Rough refraction post dilation yielded a visual acuity of 20/100 in the left eye. The retina is well attached and no further retinal surgery would be anticipated.

{¶ 6} "****." (Defendant's Exhibit B.)

{¶ 7} In addition, Dr. Miller opined to a reasonable degree of medical probability that if plaintiff had been treated promptly by Dr. Chorich in April 2001 before macular involvement had set in, plaintiff's vision could have been restored with correction, i.e., a contact lens and glasses, to 20/20 or 20/25. Dr. Miller further opined that plaintiff most likely would have undergone three surgical procedures even with prompt treatment, but that the permanent vision loss that plaintiff sustained as a result of macular involvement could have been prevented by timely intervention.

{¶ 8} During the liability portion of the trial, plaintiff presented the testimony of Robert Newcomb, O.D., and Louis J.

Chorich, III, M.D., the ophthalmologist who performed plaintiff's three eye surgeries. Based upon their testimony and the testimony of Dr. Miller, the court finds that defendant's failure to timely treat plaintiff's complaints of vision loss allowed plaintiff's retinal detachment to progress into a retinal detachment with macular involvement, i.e., the central part of the retina, which resulted in permanent loss of central vision in plaintiff's left eye.

{¶ 9} While there was some disagreement among Drs. Miller, Chorich, and Riles as to the level of vision in plaintiff's left eye, the evidence establishes that the level is in the range of 20/70 to 20/100, with correction. Dr. Miller commented in his report that plaintiff has sustained permanent macular damage. The court notes that prior to any surgeries, plaintiff had suffered from moderate myopia of both eyes and required the use of eyeglasses.

{¶ 10} Plaintiff testified that he graduated from high school in 1977 with vocational training in welding and that he began employment as a welder in Lorain, Ohio that same year. Thereafter, plaintiff moved to Texas and worked as a welder on an off-shore oil rig until he moved to Lima, Ohio where he worked as a welder at the Lima Tank Plant for 11 years. In 1992, plaintiff's hourly wage at the Lima Tank Plant was \$15.05. Plaintiff was incarcerated from 1992 to June 2003.

{¶ 11} Plaintiff further testified that after he was released from prison, he lived in a halfway house and obtained a job at Etch Plastics as a factory worker earning \$7.50 per hour. After he was released from the halfway house, plaintiff obtained a job at Inland in Lorain, Ohio, as a fabricator of parts for steel mills. Plaintiff's hourly wage was \$9 during a probationary period and thereafter increased to \$10.50. While plaintiff was working at

Inland, he discovered that he could no longer adequately perform his duties as a welder. Plaintiff explained that he had no depth perception in his near vision which caused him to create "porosity" or tiny holes in his welds. Plaintiff left his employment at Inland and is currently employed at Beco Tex as a machine operator earning \$9 per hour. After completing a probationary period of 90 days, plaintiff expects to earn \$11 per hour.

{¶ 12} Plaintiff also testified about how his decreased vision has affected his daily life. For example, plaintiff's lack of depth perception prevents him from being able to read small print.

Plaintiff also complained of unintentionally bumping into people or objects. In addition to his prescription eyeglasses, plaintiff has tried two different types of contact lenses; however, both types of contact lens have caused pain and a "watery eye." Plaintiff may also undergo another eye surgery for the placement of a permanent, artificial lens in his left eye.

{¶ 13} Dr. Hadley testified that if plaintiff were able to earn a living as a welder, he would earn an average of \$15.90 per hour. Dr. Hadley calculated that the difference between plaintiff's earnings of \$11 per hour and \$15.90 per hour over time for continuous, full-time employment until the age of retirement would equal \$192,151.

{¶ 14} The court finds that plaintiff has proven that he had a steady, full-time employment history for 15 years prior to his incarceration. The court further finds that based upon the testimony and evidence presented at trial, a reasonable rate of wage loss from the date of plaintiff's release until the date of plaintiff's expected retirement at age 63 is \$3 per hour. The court finds that based upon plaintiff's age of 47, he would have a remaining work life of 16 years after June 2003, until the year 2020.

{¶ 15} Using the tables offered by Dr. Hadley, which include the rate of inflation, the court calculates plaintiff's future work loss to be \$111,690.76, which represents the difference between \$14 per hour with benefits and \$11 per hour with benefits based upon a 40-hour work week. The court finds that this amount is a reasonable representation of earnings loss that plaintiff will incur as a result of defendant's negligence.

{¶ 16} In addition, the court finds that plaintiff is entitled to \$15,000 for pain and suffering and an additional \$15,000 for change in lifestyle due to defendant's negligence.

{¶ 17} In summary, judgment shall be rendered in favor of plaintiff in the amount of \$141,690.76 plus the \$25 filing fee.

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RANDALL ADKINS	:	
Plaintiff	:	CASE NO. 2004-01397
v.	:	Judge J. Craig Wright
	:	<u>JUDGMENT ENTRY</u>
DEPARTMENT OF REHABILITATION AND CORRECTION	:	
	:	
Defendant	:	

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This case was tried to the court on the issue of damages. The court has considered the evidence and, for the reasons set forth in the decision filed concurrently herewith, judgment is hereby rendered in favor of plaintiff in the amount of \$141,715.76 which includes the filing fee paid by plaintiff. Court costs are

assessed against defendant. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. CRAIG WRIGHT
Judge

Entry cc:

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