FILED
MAR 31 1986
CLERK SUPREME COURT

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IN THE COURT OF APPEALS OF IOWA

EDWARD LEE THOMAS,	)	
Plaintiff-Appellant,	)	Filed March 31, 1986
vs.	)	5-697 85-214
STATE OF IOWA,	)	
Defendant-Appellee.	)	

Appeal from the Iowa District Court for Polk County (No. CL36-20794) - Joel D. Novak, Judge.

Plaintiff appeals from an adverse judgment. **AFFIRMED.**

J. Bradley Hardman, of the Thomas J. Reilly Law Firm, P.C., Des Moines, for plaintiff-appellant.

Thomas J. Miller, Attorney General, and John R. Scott, Assistant Attorney General, for defendant-appellee.

Considered by Oxberger, C.J., and Hayden, and Sackett, JJ.

SACKETT, J.

Plaintiff an inmate at the Iowa State Penitentiary was stabbed with a pair of barber shears by Wagener a fellow inmate. Plaintiff sued the State of Iowa claiming the stabbing was the result of negligence of prison officials at the penitentiary.

The cause was tried to the court who found in favor of the state.

The court concluded from the evidence presented plaintiff had failed to meet his burden of proof in establishing there was inadequate supervision in the area where plaintiff was stabbed and found from the evidence presented there was adequate supervision.

The court concluded plaintiff failed to establish by the evidence defendant was negligent in failing to segregate or supervise Wagener more closely.

The court further determined there was no evidence presented to sustain plaintiff's burden defendant did not act in an ordinary and reasonably careful manner concerning Wagener's segregation and supervision.

The court further determined those allegations of negligence of the plaintiff attacking planning or policy decisions of prison administrators fall within the discretionary function exception to the State Tort Claim Act.

Plaintiff appeals contending the trial court erred in finding the prison officials were not negligent in: (1) implementation of procedure governing the use of barber shears, (2) failing to detect or prevent the absence of the barber shears from the area in which it belonged, (3) failing to supervise more closely the inmate attacker, and (4) failing to provide adequate supervision of the area in which plaintiff was stabbed.

Plaintiff further contends the claimed negligence was not a discretionary function.

When the trial court in a law action tried to the court denies recovery because of a party's failure to carry his burden on an issue, we will not interfere on appeal unless we find the party carried his burden as a matter of law. The evidence in the party's favor must be so overwhelming that only one reasonable inference can be drawn. On review we examine the evidence in the light most favorable to the judgment. Roland v. Forty-O-Four Grand Corp., 246 N.W.2d 922, 925 (Iowa 1976); Harper v. Cedar Rapids Tela. Co. Inc., 244 N.W.2d 782, 787 (Iowa 1976).

We fail to find the evidence so strong as to compel a finding of negligence as a matter of law. See Anthony v. State, 374 N.W.2d 662, 668 (Iowa 1985).

Having so decided we need not determine whether the alleged actions were discretionary functions.

AFFIRMED.