

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2007 CA 1934

CHARLES BERGERON

VS.

**TALMADGE BUNCH, IN HIS OFFICIAL CAPACITY
AS SHERIFF OF EAST FELICIANA PARISH**

JUDGMENT RENDERED: MAY 2, 2008

**ON APPEAL FROM THE
TWENTIETH JUDICIAL DISTRICT COURT
DOCKET NUMBER 35220, DIVISION B
PARISH OF EAST FELICIANA, STATE OF LOUISIANA**

THE HONORABLE WILLIAM G. CARMICHAEL, JUDGE

**CHARLES L. DIRKS, III
BATON ROUGE, LA**

**WILLIAM F. DODD
HOUMA, LA**

**ATTORNEY FOR PLAINTIFF/
APPELLANT
CHARLES BERGERON**

**ATTORNEY FOR DEFENDANT/
APPELLEE
TALMADGE BUNCH, IN HIS
OFFICIAL CAPACITY AS
SHERIFF OF EAST FELICIANA
PARISH**

BEFORE: GAIDRY, McDONALD AND McCLENDON, JJ



McDONALD, J.

Charles Bergeron filed suit against the defendant, Sheriff Talmadge Bunch, in his official capacity as the Sheriff of East Feliciana Parish, for injuries Mr. Bergeron received as a result of an incident which occurred during his employment with Sheriff Bunch as a courtroom bailiff. The incident occurred during proceedings at the East Feliciana Courthouse in Clinton, Louisiana. An inmate who wore handcuffs secured to a waist chain and leg shackles became combative during court proceedings and was removed from the courtroom. While assisting two deputies in escorting the inmate down a set of stairs, Mr. Bergeron fell down the stairs and sustained injuries.

Pursuant to La. R.S. 23:1034, a sheriff is not required to carry workers' compensation coverage for his employees. At the time Mr. Bergeron was injured, Sheriff Bunch did not maintain workers' compensation for his employees. Sheriff Bunch has paid Mr. Bergeron's medical bills and other bills associated with the incident.

Mr. Bergeron asserts that the incident causing his injuries was the result of the following acts and omissions on the part of Sheriff Bunch: failure to ensure that the inmates who appeared in court were properly secured; failure to provide an adequate number of deputies to secure inmates in court; failure to train deputies to secure inmates who appeared in court; failure to adequately equip deputies for purposes of securing inmates in court; and failure to have adequate procedures in place to ensure inmates are secured at the courthouse.

After a trial on the merits, the trial court ruled in favor of Sheriff Bunch, finding no failure to exercise reasonable care to protect Mr. Bergeron from a foreseeable risk and dismissing Mr. Bergeron's suit with prejudice.

The trial court found that there was no showing of inadequate procedure, lack of training, or failure to use equipment that could have changed the outcome of this incident.

Mr. Bergeron appealed that judgment. He asserts that the trial court erred in failing to conclude that the evidence reflected a failure by Sheriff Bunch to exercise reasonable care under the circumstances to protect Mr. Bergeron from a foreseeable risk.

A court of appeal may not set aside a trial court's finding of fact in the absence of "manifest error" or unless it is "clearly wrong." **Stobart v. State, through Department of Transportation and Development**, 617 So.2d 880, 882 (La. 1993). After a thorough review of the record, we cannot say the trial court's findings of facts were manifestly erroneous or clearly wrong. Thus, the trial court judgment is affirmed. Costs are assessed against Mr. Bergeron. This summary opinion is rendered in accordance with the Uniform Rules-Courts of Appeal, Rule 2-16.1.B.

AFFIRMED.