

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

679

CA 15-00701

PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ.

BERTRAM PAYNE, CLAIMANT-APPELLANT,

V

MEMORANDUM AND ORDER

STATE OF NEW YORK, DEFENDANT-RESPONDENT.
(CLAIM NO. 115204.)

BERTRAM PAYNE, CLAIMANT-APPELLANT PRO SE.

ERIC T. SCHNEIDERMAN, ATTORNEY GENERAL, ALBANY (OWEN DEMUTH OF
COUNSEL), FOR DEFENDANT-RESPONDENT.

Appeal from a judgment of the Court of Claims (Renee Forgensi Minarik, J.), dated February 13, 2015. The judgment dismissed the claim after a trial.

It is hereby ORDERED that the judgment so appealed from is unanimously affirmed without costs.

Memorandum: Claimant, an inmate at a correctional facility, commenced this action seeking damages for injuries he sustained when he slipped and fell on a puddle of water in the hallway outside of his housing unit. We reject claimant's contention that the determination of the Court of Claims dismissing the claim following a trial is against the weight of the evidence. " 'While it is well settled that this Court has the authority to independently consider the weight of the evidence on an appeal in a nonjury case, deference is still afforded to the findings of the Court of Claims where, as here, they are based largely on credibility determinations' " (*Janczylik v State of New York*, 126 AD3d 1485, 1485). Here, the court credited the testimony and evidence presented at trial establishing that correction officers obtained notice of the condition only 15 minutes prior to the incident and were waiting for a housing porter to arrive and clean the area when claimant fell. The court's determination that the 15-minute delay in removing the water was not unreasonable under the circumstances is not against the weight of the evidence (*see Diaz v State of New York*, 256 AD2d 1010, 1010).

Entered: November 10, 2016

Frances E. Cafarell
Clerk of the Court