

United States Court of Appeals  
For the Eighth Circuit

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No. 14-3475

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John Vincent Mackovich

*Plaintiff - Appellant*

v.

United States of America

*Defendant - Appellee*

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Appeal from United States District Court  
for the Western District of Missouri - Springfield

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Submitted: July 7, 2015

Filed: July 13, 2015

[Unpublished]

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Before SMITH, BOWMAN, and COLLOTON, Circuit Judges.

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PER CURIAM.

John Vincent Mackovich appeals from the judgment entered by the District Court<sup>1</sup> following a bench trial in this Federal Tort Claims Act suit arising out of an

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<sup>1</sup>The Honorable Dean Whipple, United States District Judge for the Western District of Missouri.

alleged slip-and-fall accident at the United States Medical Center for Federal Prisoners in Springfield, Missouri. Following careful review, we conclude that the court’s factual findings and credibility determinations are not clearly erroneous and that the court correctly stated and applied Missouri premises-liability law. See Wright v. St. Vincent Health Sys., 730 F.3d 732, 737 (8th Cir. 2013) (discussing the standard for reviewing a judgment entered after a bench trial and noting that factual findings are reviewed for clear error while legal conclusions are reviewed de novo); Moore v. Novak, 146 F.3d 531, 535 (8th Cir. 1998) (quoting the Supreme Court’s explanation of why a trial judge’s evaluation of witness credibility can virtually never amount to clear error); Stanley v. City of Independence, 995 S.W.2d 485, 487 (Mo. 1999) (setting forth the elements of a negligence claim under Missouri law); Huxoll v. McAlister’s Body & Frame, Inc., 129 S.W.3d 33, 35 (Mo. Ct. App. 2004) (per curiam) (recognizing that the possessor of land has no duty to protect invitees from open and obvious dangers “unless the landowner should anticipate the harm despite the obviousness of the risk”).

We affirm.

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