

[Cite as *Stewart v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-4136.]

IN THE COURT OF CLAIMS OF OHIO

JAMES L. STEWART :
Plaintiff : CASE NO. 2001-04697
v. : JUDGMENT ENTRY
OHIO DEPARTMENT OF :
REHABILITATION AND CORRECTION :
Defendant :
: : : : : : : : : : : : : : : :

{¶1} This case was tried to a magistrate of the court. On May 15, 2002, the magistrate issued a decision recommending judgment for defendant. On May 29, 2002, plaintiff filed objections and on June 5, 2002, defendant filed a response. Thereafter, on June 24, 2002, plaintiff filed a motion to strike defendant's response and a motion for sanctions pursuant to Civ.R. 11.

{¶2} Plaintiff's motion to strike and for sanctions is hereby DENIED. Furthermore, upon review of plaintiff's four enumerated objections, the court finds that each of those objections challenge factual findings made by the magistrate.

{¶3} Civ.R. 53(E)(6) provides in relevant part:

{¶4} *** [T]he court may adopt any finding of fact in the referee's report without further consideration unless the party who

objects to that finding supports that objection with a copy of all relevant portions of the transcript from the referee's hearing or an affidavit about evidence submitted to the referee if no transcript is available. ***" Since plaintiff has not filed a transcript of proceedings or an affidavit of evidence as required by Civ.R. 53(E)(6), the court adopts the magistrate's findings of fact without further review.

{¶5} Upon review of the record, the magistrate's decision, plaintiff's objections and the memoranda filed by the parties, the court finds that the magistrate correctly analyzed the issues and applied the law to the facts. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own. Judgment is rendered in favor of defendant. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

JUDGE

Entry cc:

James L. Stewart, #226-705 Pro se
Madison Correctional Institution
P.O. Box 740
London, Ohio 43140

Case No. 2001-04697

- 3 -

JUDGMENT ENTRY

Matthew J. Lampke
65 East State St., 16th Fl.
Columbus, Ohio 43215

Assistant Attorney General

LP/cmd/Filed 7-10-2002/Jr. Vol. 711, Pgs. 1-2/To S.C. reporter 8-12-2002