

[Cite as *Newell v. Ohio Dept. of Rehab. & Corr.*, 2006-Ohio-1799.]

IN THE COURT OF CLAIMS OF OHIO
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TIMOTHY NEWELL :
Plaintiff : CASE NO. 2002-06880
v. : Judge J. Craig Wright
Magistrate Steven A. Larson
OHIO DEPARTMENT OF : JUDGMENT ENTRY
REHABILITATION AND CORRECTION :
Defendant :
: : : : : : : : : : : : : : : :

{¶ 1} This case was tried to a magistrate of the court on the issue of liability. On December 19, 2005, the magistrate issued a decision recommending judgment for defendant.

{¶ 2} Civ.R. 53(E)(3)(a) states: "A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, regardless of whether the court has adopted the decision pursuant to Civ.R. 53(E)(4)(c). ***" Plaintiff has timely filed objections to the magistrate's decision and an affidavit of evidence. Defendant has not filed a response.

{¶3} In plaintiff's second objection, plaintiff contends that the magistrate erred in failing to consider plaintiff's claim of negligence based upon Dr. Woyshville's alleged failure to follow defendant's drug prescription policy. The magistrate however, concluded that plaintiff failed to prove that Dr. Woyshville's conduct in prescribing Depo Provera was the proximate cause of the blood clot in plaintiff's eye. The court agrees with the magistrate's finding. Accordingly, plaintiff's second objection is OVERRULED.

{¶4} Plaintiff's remaining objections challenge the magistrate's treatment of his informed consent claim as a medical claim. Upon review, the court finds that the magistrate's ruling upon the claim of informed consent was consistent with the law. Plaintiff was required to support his claim with expert medical testimony as to the standard of care and proximate cause. Accordingly, plaintiff's remaining objections are OVERRULED.

{¶5} Upon review of the record, the magistrate's decision, and the affidavit of evidence, the court finds that the magistrate correctly analyzed the issues and applied the law to the facts. Therefore, the court adopts the magistrate's decision and recommendation as its own, including the findings of fact and conclusions of law contained therein. 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.

J. CRAIG WRIGHT
Judge

Entry cc:

Timothy Newell, #153-518
2500 South Avon-Belden Road
Grafton, Ohio 44044

Plaintiff, Pro se

James P. Dinsmore
Assistant Attorney General
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215-3130

Attorney for Defendant

LP/cmd
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JUDGMENT ENTRY

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