

[Cite as *Carter v. Dept. of Rehab. & Corr.*, 2008-Ohio-5721.]

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

DEE CARTER

Plaintiff

v.

DEPARTMENT OF REHABILITATION
AND CORRECTION

Defendant

[Cite as *Carter v. Dept. of Rehab. & Corr.*, 2008-Ohio-5721.]

Case No. 2005-08964

- 3 -

JUDGMENT ENTRY

Case No. 2005-08964

Judge J. Craig Wright
Magistrate Steven A. Larson

JUDGMENT ENTRY

{¶ 1} On June 12, 2008, the magistrate issued a decision recommending that judgment be rendered in favor of defendant.

{¶ 2} Civ.R. 53(D)(3)(b)(i) states, in part: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i).” On July 29, 2008, plaintiff filed an objection in which he asserts that the magistrate failed to make “a fair factual finding or legal conclusion” and that the magistrate’s decision is against the manifest weight of the evidence. On August 11, 2008, defendant file a response.

{¶ 3} The court notes that on August 1, 2008, plaintiff filed correspondence with the court wherein he requested that the court provide him with a copy of the trial transcript. On the same date, the court sent a letter to plaintiff advising him that the court does not provide transcripts and that a copy of the transcript could be purchased from the court reporter. It is well-settled that due process does not require that indigent civil litigants be provided with free trial transcripts for purposes of appeal. *Watley v. Dept. of Rehab. & Corr.*, Franklin App. No. 06AP-1128, 2007-Ohio-1841. Plaintiff failed to file a transcript.

{¶ 4} Civ.R. 53(D)(3)(b)(iii) states: “An objection to a factual finding, whether or not specifically designated as a finding of fact under Civ.R. 53(D)(3)(a)(ii), shall be supported by a transcript of all evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available. * * * The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement his objections.”

{¶ 5} Inasmuch as plaintiff’s objection pertains to factual findings made by the magistrate, plaintiff was required to support his objection with a trial transcript or affidavit. Plaintiff’s failure to file a transcript or affidavit leaves the court unable to review the alleged error raised in his objection. Accordingly, plaintiff’s objection is **OVERRULED**.

{¶ 6} The court determines that there is no error of law or other defect evident on the face of the magistrate's decision. 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

cc:

Douglas R. Folkert
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Dee Carter, #575-275
Chillicothe Correctional Institution
P.O. Box 5500, 15802 State Route 104 North
Chillicothe, Ohio 45601

Magistrate Steven A. Larson