

Court of Claims of Ohio

The Ohio Judicial Center
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DEAN JOHNSON, etc.

Plaintiff

v.

OHIO DEPARTMENT OF TRANSPORTATION

Defendant

Case No. 2004-09398

Judge Joseph T. Clark
Magistrate Lee Hogan

JUDGMENT ENTRY

{¶ 1} This case was tried to a magistrate of the court. On August 8, 2008, the magistrate issued a decision recommending judgment for defendant. On August 19, 2008, plaintiff filed objections to the magistrate's decision. Defendant responded to plaintiff's objections on September 5, 2008.

{¶ 2} Civ.R. 53(D)(3)(b)(i) states: "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)."

{¶ 3} Plaintiff has timely filed his objections; however, plaintiff failed to file a transcript supporting his objections as required by Civ.R. 53(D)(3)(b)(iii).

{¶ 4} When reviewing the decision of a magistrate, "[w]ithout the entire transcript, the trial judge could not, under Civ.R. 53, modify or delete findings of fact." *Ohio Edison Co. v. Gilmore* (1995), 106 Ohio App.3d 6, 11. Accordingly, to the extent

that plaintiff objects to the factual findings of the magistrate, those objections are OVERRULED.

{¶ 5} Plaintiff also raises several objections based upon the magistrate's application of law. As to these objections, the court finds that the correct legal standards have been applied.

{¶ 6} Upon review of the record, the magistrate's decision and the objections, 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, 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.

JOSEPH T. CLARK
Judge

cc:

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JK/LH/cmd
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