

# Court of Claims of Ohio

The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, OH 43215  
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CHARLES HUGHES

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2007-03331

Judge Clark B. Weaver Sr.  
Magistrate Steven A. Larson

## JUDGMENT ENTRY

{¶ 1} On July 1, 2009, the magistrate issued a decision recommending judgment for 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).” Plaintiff timely filed his objections and a transcript of the proceedings. Defendant timely responded to the objections.

{¶ 3} At all times relevant, plaintiff was an inmate in the custody and control of defendant at the Allen Correctional Institution (ACI) pursuant to R.C. 5120.16. On July 24, 2006, inmate Shawn Banks assaulted plaintiff. Plaintiff alleges that defendant was negligent in failing to prevent the assault. The magistrate found that defendant did not have notice of any impending assault and that, accordingly, plaintiff failed to prove his claim of negligence.

{¶ 4} In his first six objections, plaintiff argues that defendant had notice of a problem inasmuch as Banks' cell mates, Jose Martinez and Kenneth Wright, informed a corrections officer on July 23, 2006, that they were concerned about Banks' behavior. However, Martinez and Wright testified that their conversation with the officer pertained to Banks not taking his medication and behaving erratically, but not specific threats of violence. Upon review, the court concludes that the magistrate appropriately found that defendant lacked notice of any potential assaultive behavior on Banks' part.

{¶ 5} In his eighth objection, plaintiff argues that the magistrate erred in overruling several objections which plaintiff made during defendant's direct examination of Major Mark Bishop, chief of security at ACI. Upon review of the transcript, the objection is not well-taken.

{¶ 6} In his seventh objection, plaintiff argues that the magistrate's decision is against the manifest weight of the evidence. The court does not agree.

{¶ 7} Upon review of the record, the magistrate's decision and the objections, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own, including 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.

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CLARK B. WEAVER SR.  
Judge

cc:

Case No. 2007-03331

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JUDGMENT ENTRY

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Magistrate Steven A. Larson

RCV/cmd  
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