

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

NORMAN V. WHITESIDE

Plaintiff

v.

DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2005-04691

Judge Joseph T. Clark
Magistrate Steven A. Larson

JUDGMENT ENTRY

{¶ 1} This case is sua sponte assigned to Judge Joseph T. Clark to conduct all proceedings necessary for decision in this matter.

{¶ 2} On December 10, 2009, the magistrate issued a decision recommending judgment for defendant.

{¶ 3} 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 objections.

{¶ 4} Plaintiff asserts seven objections to the magistrate's recommendation. In his first objection, plaintiff asserts that the magistrate failed to rule on a motion for contempt that he filed on August 16, 2006. A review of the record shows that plaintiff's motion was denied on March 21, 2007. Accordingly, the first objection is **OVERRULED**.

{¶ 5} In his third, fourth, and fifth objections plaintiff challenges the magistrate's findings of fact. Civ.R. 53(D)(3)(b)(iii) states that objections to factual findings made by

a magistrate “shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding.” Plaintiff did not file a transcript to support his objections. Accordingly, plaintiff’s third, fourth, and fifth objections are OVERRULED.

{¶ 6} In his second and seventh objections, plaintiff asserts that the magistrate failed to address his claims of defamation and medical malpractice. While plaintiff did assert such claims in his complaint, without a transcript of the evidence the court is unable to determine whether plaintiff presented evidence in support of such claims at trial. Accordingly, both the second and seventh objections are OVERRULED.

{¶ 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.

JOSEPH T. CLARK
Judge

cc:

James P. Dinsmore
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Norman V. Whiteside, #184-313
Warren Correctional Institution
P.O. Box 120
Lebanon, Ohio 45036

MR/cmd
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