

Court of Claims of Ohio

The Ohio Judicial Center
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Columbus, OH 43215
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RONNIE LEE WALLACE

Plaintiff

v.

GRAFTON CORRECTIONAL INSTITUTION

Defendant

Case No. 2008-11711

Judge Joseph T. Clark
Magistrate Matthew C. Rambo

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, 2010, 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)." On December 21, 2010, plaintiff filed his objection.

{¶ 4} Plaintiff's objection challenges several factual findings made by the magistrate. Plaintiff, however, failed to support his objection with a transcript of proceedings. Civ.R. 53(D)(3)(b)(iii) states that "[a]n 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 the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available."

Inasmuch as the factual findings contained in the magistrate's decision support the magistrate's conclusions, plaintiff's objection is without merit.

{¶ 5} To the extent that plaintiff's objections are based upon the failure of certain of his witnesses to appear for trial, the court finds that the magistrate properly determined that subpoenas issued for such witnesses were not served by plaintiff in accordance with Civ.R. 45(B). Therefore, the subpoenas were not enforceable. Accordingly, plaintiff's objection is without merit.

{¶ 6} Upon review of the record, the magistrate's decision and plaintiff's objection, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. Therefore, the objection is 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:

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LP/JSO/cmd
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