



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

GORDON SAGE

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2010-03771

Judge Clark B. Weaver Sr.
Magistrate Matthew C. Rambo

JUDGMENT ENTRY

{¶1} On August 5, 2011, 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)." On August 31, 2011, plaintiff filed his objections.

{¶3} The magistrate determined that defendant could not be held liable to plaintiff for injuries sustained by plaintiff as a result of an assault by another inmate inasmuch as defendant had neither actual nor constructive notice of the impending assault.

{¶4} Plaintiff's objections challenge several factual findings made by the magistrate. Plaintiff, however, failed to support his objections 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 objections are without merit.

{¶5} To the extent that plaintiff challenges the magistrate’s conclusion on the critical issue of notice, the court’s review of the magistrate’s decision reveals that the facts found by the magistrate are sufficient to sustain the magistrate’s conclusion, and that the magistrate’s conclusion is consistent with law.

{¶6} Upon review of the record, the magistrate’s decision and plaintiff’s 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.

CLARK B. WEAVER SR.
Judge

cc:

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LP/dms
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