[Cite as *Grant v. Dept. of Rehab. & Corr.*, 2026-Ohio-1735.]

IN THE COURT OF CLAIMS OF OHIO

CHARLES GRANT Plaintiff v. OHIO DEPARTMENT OF REHABILITATION AND CORRECTION Defendant	Case No. 2024-00127JD Judge Lisa L. Sadler DECISION

{¶1} Plaintiff, Charles Grant, brought this action alleging negligence against defendant, Ohio Department of Rehabilitation and Correction (ODRC). On January 20, 2026, a magistrate of this court conducted a trial on the issue of liability only. On February 23, 2026, the magistrate issued a decision, in which he recommended judgment in favor of defendant.

{¶2} On March 5, 2026, plaintiff timely filed his objections to the February 23, 2026 decision of the magistrate. Defendant did not file a response in opposition to plaintiff's objections.

{¶3} Plaintiff's objections are now properly before the court for consideration. For the following reasons, each of plaintiff's objections are OVERRULED.

Standard of Review

{¶4} "A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision . . . ." Civ.R. 53(D)(3)(b)(i). Objections "shall be specific and state with particularity all grounds for objection." Civ.R. 53(D)(3)(b)(ii). "An objection to a factual finding, whether or not specifically designated as a finding of fact . . . , shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding . . . ." Civ.R. 53(D)(3)(b)(iii).

{¶5} The court "shall undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and

appropriately applied the law." Civ.R. 53(D)(4)(d). In reviewing the objections, the court does not act as an appellate court but rather conducts "a de novo review of the facts and conclusions in the magistrate's decision." *Ramsey v. Ramsey*, 2014-Ohio-1921, ¶¶ 16-17 (10th Dist.). "Whether or not objections are timely filed, a court may adopt or reject a magistrate's decision in whole or in part, with or without modification." Civ.R. 53(D)(4)(b).

Background & Procedural History

{¶6} On February 7, 2024, plaintiff, an inmate then in the custody and control of defendant at its Pickaway Correctional Institution (PCI) in the Frazier Health Center (FHC), filed a complaint for negligence against defendant stemming from an inmate-on-inmate attack on March 6, 2022, in which plaintiff was injured.

{¶7} On September 18, 2025, plaintiff filed a motion for summary judgment on liability, which the court denied on November 7, 2025, finding that genuine issues of material face exist regarding negligence, notice, and the application of discretionary immunity. (*See* November 7, 2025 entry denying plaintiff's motion for summary judgment, p. 5-7).

{¶8} On December 19, 2025, defendant filed a motion in limine to prevent William A. Hamann, Jr., plaintiff's designated expert witness, "from testifying and offering opinions at trial because he is not competent to testify as an expert witness." On January 12, 2026, the magistrate denied defendant's motion in limine, stating:

> The court determines that plaintiff's expert William Hamann's anticipated testimony related to matters beyond the knowledge or experience possessed by lay persons, Hamann may be qualified as an expert by specialized knowledge, skill or experience regarding the anticipated subject matter of his testimony, and that Hamann's anticipated testimony will be based on specialized information. While this ruling is preliminary, it is subject to review during the presentation of evidence, and the magistrate may revisit this issue during the trial. This ruling should not be interpreted to mean that William Hamann is qualified to testify as an expert witness in this matter.

(January 12, 2026 order of the magistrate, p. 3-4). Neither party filed a motion to set aside the magistrate's order denying defendant's motion in limine pursuant to Civ.R. 53(D)(2)(b).

{¶9} On January 20, 2026, the magistrate conducted a trial on the issue of liability only. The magistrate took defendant's Civ.R. 41(B)(2) motion for dismissal under advisement and opted for written post-trial briefing in lieu of oral closing arguments. On February 23, 2026, the magistrate issued his decision of the magistrate, in which he denied as moot defendant's Civ.R 41(B)(2) motion for dismissal, and issued a decision on the merits, recommending that judgment be entered in favor of defendant.

Plaintiff's Objections

{¶10} On March 5, 2026, plaintiff timely filed seven enumerated objections to the decision of the magistrate, including the magistrate's findings of fact and conclusions of law. Plaintiff's objection one, objection two, and objection three each relate to the magistrate's findings of fact. (Plaintiff's objections, p. 1-2). Plaintiff's objection four and objection five each relate to the magistrate's conclusions of law. (Plaintiff's objections, p. 2-4). Plaintiff's objection six and objection seven each relate to the magistrate's determination excluding plaintiff's purported expert witness. (Plaintiff's objections, p. 5-6).

{¶11} Attached to plaintiff's objections are seven labeled exhibits, A-G. *See* Civ.R. 53(D)(4)(d) ("Before so ruling, the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate."); *see also Community Properties of Ohio Mgt. v. Smith*, 2023-Ohio-540, ¶ 14 (10th Dist.) ("[W]hile a party may request the opportunity to present additional evidence in support of an objection to a magistrate's decision, the request to present additional evidence is not itself a proper objection[.]"). Exhibit A is the August 11, 2025 "expert opinion report" of Mr. Hamann, which appears to be plaintiff's non-admitted trial exhibit 29.1 through 29.6. (Trial Transcript, p. 331:15-23; 361:23-362:9). Exhibit B is the August 19, 2025 "supplement to expert opinion report" of Mr. Hamann, which appears to be plaintiff's non-admitted trial exhibit 30.1 through 30.3. (Trial Transcript, p. 331:24-332:7; 361:23-362:9).

Exhibit C is a September 4, 2025 discovery deposition transcript of Mr. Hamann. Exhibit D is the magistrate's January 12, 2026 order of the magistrate denying defendant's December 19, 2025 motion in limine related to Mr. Hamann. Exhibit E is the curriculum vitae of Mr. Hamann, which appears to be plaintiff's non-admitted trial exhibit 31.1 through 31.2. (Trial Transcript, p. 320:4-19; 361:23-362:9). Exhibit F is a March 6, 2022 electronic security check log from PCI, which is plaintiff's admitted trial exhibit 19. (Trial Transcript, p. 81:8-82:7; 358:10-12). Exhibit G is a March 2, 2026 email from the court reporter, Spectrum Reporting, confirming that plaintiff had ordered the trial transcripts.

{¶12} Defendant did not file a response in opposition to plaintiff's objections or otherwise object to the exhibits attached to plaintiff's objections.

{¶13} On March 16, 2026, a full transcript of the proceedings was provided to the court.[1] On March 18, 2026, plaintiff filed a supplement to his objections that added trial transcript citations to objection six and objection seven as well as strikes and replaces paragraph one of objection six, which the court shall consider in the interest of justice. Defendant did not file a response in opposition to plaintiff's supplement to his objections.

{¶14} The court shall conduct an independent review of the case history, testimony, transcripts, evidence, subsequent filings, and plaintiff's objection exhibits, and shall resolve each of plaintiff's objections out of enumerated order for clarity.

Objection Six and Objection Seven – Plaintiff's Designated Expert Witness

{¶15} Plaintiff's objection six challenges the magistrate's termination of the trial testimony of William A. Hamann, Jr., plaintiff's designated expert witness, and subsequent determination that Mr. Hamann is not qualified as an expert witness for the purposes of this trial, stating that the magistrate "erred in abruptly dismissing Plaintiff's expert witness after 28 pages of extensive expertise and opinion testimony." (Plaintiff's supplement to objections, p. 2). Plaintiff further alleges that such "dismissal of the Plaintiff's 'Expert' at that early stage and without an objection from counsel, nor any statement from the bench ruling why the 'Expert' was dismissed runs totally contrary to the Magistrate's Order on

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[1] Plaintiff's March 5, 2026 objections stated that "[p]ursuant to Civ.R. 53(D)(3)(b)(iii) Plaintiff has ordered a complete Trial Transcript in support of these Objections and will file it with the Court within the 30 days provided by rule. (Exhibit G attached)" (Plaintiff's objections, p. 7).

January 12, 2026 in response to Defendant's Motion in Limine concerning Plaintiff's 'Expert.'" (Plaintiff's objections, p. 5). Plaintiff's objection seven challenges the magistrate's subsequent denial of "Plaintiff's proffer of its Expert Opinion Report, and its Supplemental Expert Opinion Report . . . [t]he magistrate also denied admission of 'Expert CV.'" (Plaintiff's objections, p. 5). Accordingly, the court shall analyze these two objections together to determine whether Mr. Hamann was properly excluded as an expert witness.

{¶16} At trial, plaintiff presented the testimony of Mr. Hamann as a purported expert witness. (Trial Transcript, p. 316:12-354:23). Mr. Hamann is a former attorney and current legal support professional and minister. Mr. Hamann identified his curriculum vitae. (Trial Transcript, p. 320:4-19). Mr. Hamann stated that working in law made him "very adept at reading statutes and regulations." (Trial Transcript, p. 323:2-4). After his time as an attorney, Mr. Hamann spent years as an inmate in the custody and control of defendant at various correctional institutions around the state, which he believes provided him with specialized knowledge beyond that of the average layperson related to the decision-making process in operating and staffing a correctional institution. (Trial Transcript, p. 323:18-324:1; 328:15-331:9). While incarcerated, Mr. Hamann worked as an inmate administrative clerk and worked with the deputy warden and other administrative professionals within defendant's institutions. (Trial Transcript, p. 324:6-326:15; 327:6-328:1). During his trial testimony, Mr. Hamann identified his "expert opinion report" and "supplement to expert opinion report," and testified on the substance of those documents. (Trial Transcript, p. 331:15-352:3). During Mr. Hamann's trial testimony, the magistrate identified Mr. Hamann's expert opinions as three-fold: "We have some internal prison rule violations or post order violations, we have inmate-to-guard ratio concerns, and then we have the COVID partition concerns[,]" which was confirmed by plaintiff's counsel. (Trial Transcript, p. 352:4-353:9). After hearing brief arguments from counsel on Evid.R. 702, the magistrate determined that Mr. Hamann would not be qualified as an expert, and ultimately excluded his testimony, reports, and curriculum vitae. (Trial Transcript, p. 353:10-354:18; 361:23-362:9).

{¶17} "Preliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court[.]" Evid.R. 104(A). Ohio Evid.R. 702 states:

> A witness may testify as an expert if all of the following apply:
>
> (A) The witness' testimony either relates to matters beyond the knowledge or experience possessed by lay persons or dispels a misconception common among lay persons;
>
> (B) The witness is qualified as an expert by specialized knowledge, skill, experience, training, or education regarding the subject matter of the testimony; [and]
>
> (C) The witness' testimony is based on reliable scientific, technical, or other specialized information. . . .

{¶18} Upon independent review, the court finds that the magistrate had correctly determined in the January 12, 2026 order of the magistrate that Mr. Hamann's "anticipated testimony relates to matters beyond the knowledge or experience possessed by lay persons,"[2] and Mr. Hamann's trial testimony confirms such determination because the inside of a correctional institution is generally unknown by the average lay person. The subject matter of Mr. Hamann's purported expert testimony, however, related to decision-making processes in operating and staffing the correctional institution, rather than subject matter testimony related to actions or inactions of inmates within the correctional institution. Specifically, Mr. Hamann sought to opine on corrections officer internal rule violations, corrections officer staffing, and whether Covid partitions were appropriate. As such, upon independent review, the court finds that Mr. Hamann cannot be "qualified as an expert by specialized knowledge, skill, experience, or education regarding the subject matter of the testimony." *See* Evid.R. 702(B). While Mr. Hamann spent years in defendant's correctional institutions, and even worked with administrative personnel, such knowledge and experience does not ultimately qualify Mr. Hamann here, as an expert

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[2] To the extent plaintiff's objection six challenges the magistrate's January 12, 2026 order of the magistrate, an objection is not the proper procedural method to challenge a magistrate's order. *See* Civ.R. 53(D). Objections are reserved for challenges to magistrate decisions. *See* Civ.R. 53(D)(3)(b). Rather, a motion to set aside is the proper way to challenge a magistrate's order. *See* Civ.R. 53(D)(2)(b).

witness to opine on topics related to the decision-making process in operating and staffing a correctional institution, especially when Mr. Hamann has not otherwise worked for defendant outside of his capacity as an inmate administrative clerk, has not otherwise obtained formal education or training in corrections, and was not incarcerated during Covid.

{¶19} Upon independent review, the court finds that the magistrate properly applied Evid.R. 702(B) in excluding Mr. Hamann as an expert witness, and, as such, appropriately excluded Mr. Hamann's trial testimony. Because Mr. Hamann was excluded as an expert witness, upon independent review, the court finds that the magistrate did not fail to proffer Mr. Hamann's "expert opinion report," "supplement to expert opinion report," and curriculum vitae as exhibits; rather the magistrate properly excluded the exhibits with the exclusion of Mr. Hamann as an expert witness. *See Ullmann v. Duffus*, 2005-Ohio-6060, ¶ 23 (10th Dist.) (expert report deemed inadmissible hearsay without expert testimony); *see also* Evid.R. 103(A)(2) ("Error may not be predicated upon a ruling which admits or excludes evidence unless a substantial right of the party is affected, and [i]n case the ruling is one excluding evidence, the substance of the evidence was made known to the court by offer or was apparent from the context within which questions were asked."). As such, plaintiff's objection six and objection seven are each OVERRULED. Accordingly, because Mr. Hamann was presented only as an expert witness and not a lay witness, the court shall analyze the magistrate's findings of fact without the inclusion of Mr. Hamann's trial testimony, "expert opinion report," "supplement to expert opinion report," and curriculum vitae.

Objection One, Objection Two, and Objection Three – Findings of Fact

{¶20} Plaintiff's objection one and objection two challenge a single sentence in the magistrate's findings of fact: "The required 30-minute rounds performed by corrections officers, however, were unaffected by the partitions as the corrections officers were still required to make their rounds." (February 23, 2026 decision of the magistrate, p. 2). Objection one relates to the first clause, "'[t]he required 30-minute rounds performed by corrections officers. . .' This finding of fact is misleading. The term officers (plural), implies that there was more than one corrections officer[,]" but only one was assigned when

plaintiff was attacked. (Plaintiff's objections, p. 1-2). Objection two relates to the second clause, "'however, were unaffected by the partitions as the corrections officers were still required to make their rounds.' This finding of fact is false and misleading. To state that the officer's rounds were 'unaffected by the partitions' is patently and logically false." (Plaintiff's objections, p. 2).

{¶21} The credibility of witnesses and the weight attributable to their testimony are primarily matters for the trier of fact. *State v. DeHass*, 10 Ohio St.2d 230 (1967), paragraph one of the syllabus. The court is free to believe or disbelieve all or any part of each witness's testimony. *State v. Antill*, 176 Ohio St. 61, 67 (1964). Therefore, the magistrate, as the trier of fact in a bench trial, is free to rely on the facts he deems most relevant and material to the issues at hand and free to disregard some evidence and rely on other evidence, in part, in whole, or any deviation in between. *See Siegel v. Univ. of Cincinnati College of Med.*, 2015-Ohio-441, ¶ 12 (10th Dist.) (Any "suggestion that a magistrate, whether by individual capacity of the magistrate or by authorization from the court, is incapable of deciding the facts and weighing the credibility of witnesses, lacks merit.").

{¶22} When a court independently reviews objections to a magistrate's decision, a court may give weight to a magistrate's assessment of witness credibility in view of a magistrate's firsthand exposure to the evidence. *Id.* "'Although the trial court may appropriately give weight to the magistrate's assessment of witness credibility in view of the magistrate's firsthand exposure to the evidence, the trial court must still independently assess the evidence and reach its own conclusions.'" *Sweeney v. Sweeney*, 2006-Ohio-6988, ¶ 15 (10th Dist.), citing *DeSantis v. Soller*, 70 Ohio App.3d 226, 233 (10th Dist.1990).

{¶23} Upon independent review, the court finds credible testimony from corrections officer (CO) Chad Shoemaker for the cited sentence at issue. CO Shoemaker, in discussing CO rounds, testified that "[y]ou have rounds you have to make every staggered intervals, not exceeding 30 minutes, and you have to make one in the first 15 minutes and the last 15 minutes of your shift." (Trial Transcript, p. 67:13-16). CO Shoemaker went on to discuss CO rounds while Covid partitions were in place, testifying that "[i]t really – I mean, if you're making good quality rounds, it really doesn't

affect a whole lot. You walk up and down each row, and you can see as you pass by. Might affect a little bit of – at a distance, I mean, you can't see from one corner of the room to the other." (Trial Transcript, p. 68:20-69:1). Upon independent review, the court finds that the use of corrections officers, plural, is a reference to the general nature and expectations of CO rounds, rather than the facts of this specific case. And the court finds that the magistrate clearly found such testimony credible as well, and more credible than any other testimony that the partitions caused issues during CO rounds, to make such a finding of fact. Moreover, the magistrate's findings of fact use singular "corrections officer" when relating to the facts specific to this case related to CO rounds. (February 23, 2026 decision of the magistrate, p. 2 ("The corrections officer assigned to the FHC upper level, Chad Shoemaker, was performing a required round of the unit while the attack transpired.")). As such, plaintiff's objection one and objection two are each OVERRULED.

{¶24} Objection three is a general objection to the findings of fact and states "Plaintiff's significant Objection to the Magistrate's 'Findings of Fact' is that they are largely irrelevant to the liability issues raised and proven by the Plaintiff in his Complaint, Motion for Summary Judgment, trial evidence, and post-trial brief. Plaintiff's convincing and determinative facts will be discussed at the end of these precise Objections." (Plaintiff's objections, p. 2).

{¶25} Upon independent review, the court finds that plaintiff's objection three is conclusory and does not identify specific factual findings as required by Civ.R. 53(D)(3)(b)(ii). The liability issues in this case relate to inmate-on-inmate attack negligence. And, upon independent review, the court finds that the magistrate's findings of fact are those which can be applied in an inmate-on-inmate attack negligence case. Plaintiff does not specify which particular facts he believes are "convincing and determinative facts" in relation to this objection nor which particular facts in the magistrate's findings of fact are "largely irrelevant." Plaintiff does not otherwise specifically clarify his expectations for objection three in any other objection. And the court notes that plaintiff's motion for summary judgment on liability was denied so no usable facts can be ascertained therefrom, and thus nothing was proven at the complaint or motion for summary judgment stages of this case. Ultimately, Ohio courts consistently hold that vague or generalized objections are insufficient to invoke meaningful

review. *See State ex rel. Williams v. Ohio Adult Parole Auth.,* 2023-Ohio-850, ¶ 3 (10th Dist.). As such, plaintiff's objection three is OVERRULED.

{¶26} Upon independent review, and after each of plaintiff's objections to the magistrate's findings of fact have been overruled, the court finds that the magistrate's findings of fact accurately detail the relevant facts necessary for application of relevant case law, and, as such, the court hereby adopts the magistrate's findings of fact. (February 23, 2026 decision of the magistrate, p. 1-2).

Objection Four and Objection Five – Conclusions of Law

{¶27} Plaintiff's objection four challenges the legal framework under which this case should be decided stating that the magistrate "erred in failing to apply the relevant facts of Plaintiff's case to the relevant law in Ohio." (Plaintiff's objections, p. 3). Specifically, plaintiff challenges the magistrate's use of *Skorvanek v. Ohio Dept. of Rehab. & Corr.*, 2018-Ohio-3870, because such reliance "is misplaced very simply because the facts established in *Skorvanek* . . . are very different from the established facts of the instant case." (Plaintiff's objections, p. 3). Instead, plaintiff argues that "*Frash v. Ohio Dept. [of] Rehab. & Corr.*, 2016-Ohio-360 (10th Dist.) must be applied to the 'Totality of Circumstances' present in the instant matter."[3] (Plaintiff's objections, p. 3). Plaintiff's case is an inmate-on-inmate attack negligence case.

{¶28} "To establish negligence, a plaintiff must show the existence of a duty, a breach of that duty, and injury resulting proximately therefrom." *Taylor v. Ohio Dept. of Rehab. & Corr.*, 2012-Ohio-4792, ¶ 15 (10th Dist.). "In the context of a custodial relationship between the state and its prisoners, the state owes a common-law duty of reasonable care and protection from unreasonable risks." *Jenkins v. Ohio Dept. of Rehab. & Corr.*, 2013-Ohio-5106, ¶ 8 (10th Dist.). "Reasonable care is that degree of caution and foresight an ordinarily prudent person would employ in similar circumstances, and includes the duty to exercise reasonable care to prevent an inmate from being injured

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[3] *Frash v. Ohio Dept. of Rehab. & Corr.*, has two usable citations representing the same underlying facts: *Frash I*, 2016-Ohio-360 (10th Dist.) (granting plaintiff-appellant's appeal from the trial court and remanding for a new trial) and *Frash II*, 2016-Ohio-3134 (10th Dist.) (subsequently denying defendant-appellee's application for en banc review).

by a dangerous condition about which the state knows or should know." *McElfresh v. Ohio Dept. of Rehab. & Corr.*, 2004-Ohio-5545, ¶ 16 (10th Dist.). "However, while 'prison officials owe a duty of reasonable care and protection from unreasonable risks to inmates, . . . they are not the insurers of inmates' safety.'" *Morris v. Ohio Dept. of Rehab. & Corr.*, 2021-Ohio-3803 ¶ 31 (10th Dist.), quoting *Phelps v. Ohio Dept. of Rehab. & Corr.*, 2016-Ohio-5155, ¶ 12 (10th Dist.).

{¶29} "When one inmate attacks another inmate, 'actionable negligence arises only where prison officials had adequate notice of an impending attack.'" *Skorvanek v. Ohio Dept. of Rehab. & Corr.,* 2018-Ohio-3870, ¶ 29 (10th Dist.), quoting *Metcalf v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-5082, ¶ 11 (10th Dist.); *see also Watson v. Ohio Dept. of Rehab. & Corr.*, 2012-Ohio-1017, ¶ 9 (10th Dist.) ("The law is well-settled in Ohio that ODRC is not liable for the intentional attack of one inmate by another, unless ODRC has adequate notice of an impending assault."). "'Whether ODRC had or did not have notice is a question that depends on all the factual circumstances involved.'" *Skorvanek* at ¶ 29, quoting *Frash v. Ohio Dept. of Rehab. & Corr.*, 2016-Ohio-3134, ¶ 11 (10th Dist.).

{¶30} "Notice may be actual or constructive, the distinction being the manner in which the notice is obtained rather than the amount of information obtained." *Watson* at ¶ 9. "Actual notice is notice obtained by actual communication to a party." *Barnett v. Ohio Dept. of Rehab. & Corr.*, 2010-Ohio-4737, ¶ 23 (10th Dist.). "Constructive notice is that notice which the law regards as sufficient to give notice and is regarded as a substitute for actual notice." *Hughes v. Ohio Dept. of Rehab. & Corr.*, 2010-Ohio-4736, ¶ 14 (10th Dist.).

{¶31} Upon independent review, plaintiff's contention that the current case is factually distinct from *Skorvanek* is immaterial because *Skorvanek* is used by the court here to set out the well settled law on inmate-on-inmate attack negligence cases. Instead, plaintiff, arguing a different application is necessary, must show that the facts established in this case warrant the unusual application as was used in *Frash*. *See Frash v. Ohio Dept. of Rehab. & Corr.*, 2016-Ohio-3134, ¶ 18 (10th Dist.) ("In *Frash* we applied the law as it existed in this district to a highly unusual fact pattern to reach the result we did, but we did not state any new or conflicting rules of law. Our decision in *Frash* does not conflict with other decisions of this district on any question of law.").

{¶32} In adopting the magistrate's findings of fact, the court has determined the available facts to be applied to the law. Upon independent review, the court finds that the magistrate appropriately applied such facts in concluding that "[t]he factual circumstances surrounding the attack on plaintiff, however, are materially different from those in *Frash*, and a different result is required." (February 23, 2026 decision of the magistrate, p. 7). As such, plaintiff's objection four is OVERRULED.

{¶33} Plaintiff's objection five also challenges the legal framework under which this case should be decided stating that "[d]iscretionary immunity should not be afforded to Plaintiff[.]" (Plaintiff's objections, p. 3).

{¶34} With respect to prison administration, specifically, it is well settled that "[p]enal institutions are 'accorded deference in adopting and executing policies and procedures to maintain order.'" *Allen v. Ohio Dept. of Admin. Servs. Office of Risk Mgmt.*, 2020-Ohio-1138, ¶ 18 (10th Dist.), quoting *Hughes*, 2010-Ohio-4739, at ¶ 17 (10th Dist.). Importantly, decisions that concern prison security and administration are executive functions that involve a high degree of official discretion. *See Skorvanek v. Ohio Dept. of Rehab. & Corr.*, at ¶ 84 (10th Dist.); *see also Burse v. Ohio Dept. of Rehab. & Corr.*, 2019-Ohio-2882, ¶ 17 (10th Dist.). However, "discretionary immunity is not absolute. Once a discretionary decision has been made to engage in a certain activity, 'the state may be held liable, in the same manner as private parties, for the negligence of the actions of its employees and agents in the performance of such activities.'" *Smith v. Ohio State Univ.*, 2024-Ohio-764, ¶ 17, quoting *Reynolds v. State*, 14 Ohio St.3d 68 (1984), paragraph one of the syllabus. Thus, "when a suit challenges the manner in which the state implements one of its discretionary decisions, the Court of Claims will not be barred from hearing the case." *Smith*, 2024-Ohio-764, at ¶ 17.

{¶35} To determine whether a defendant is entitled to discretionary immunity, the court looks to which decision or action a plaintiff challenges. *See McDermott v. Ohio State Univ.*, 2025-Ohio-396, ¶ 23 (10th Dist.); *see also Smith v. Ohio State Univ.*, 2024-Ohio-5887, ¶ 25 (10th Dist.). Here, the magistrate applied discretionary immunity to defendant's Covid partitions and inmate-to-guard ratios. (February 23, 2026 decision of the magistrate, p. 5-6).

{¶36} Upon independent review, the court concludes that the magistrate appropriately applied the doctrine of discretionary immunity to plaintiff's arguments regarding defendant's Covid partitions and inmate-to-guard ratios. The crux of plaintiff's argument questions the policy determination rather than its application; essentially, plaintiff argues that the Covid partitions should not have been up at the time of plaintiff's attack and more corrections officers should have been posted. *See Smith*, 2024-Ohio-5887, ¶ 1 (10th Dist.) (discretionary immunity applied to OSU's decisions in response to the Covid-19 pandemic); *see also Skorvanek*, 2018-Ohio-3870, at ¶ 7, 84 (10th Dist.) (discretionary immunity applied to ODRC staffing one corrections officer for 160 inmates while also making rounds). Specifically the list of items plaintiff states defendant "negligently failed to [do]" and what defendant "could have [done]," which are plaintiff's challenges directly to the implementation of these policies, are not based on credible facts in evidence before the court and rather are significantly based on the testimony of plaintiff's purported expert witness, Mr. Hamann, which has already been determined to be excluded from this case. (*See* Plaintiff's objections, p. 3-4). Plaintiff's arguments are simply speculative and conjecture otherwise. *See Gysegem v. Ohio State Univ. Wexner Med. Ctr.*, 2020-Ohio-4910, ¶ 52, quoting *Ault v. Hall*, 119 Ohio St. 422 (1928), paragraph one of the syllabus ("'A presumption of negligence is never indulged from the mere fact of injury, but the burden of proof is upon the plaintiff to prove the negligence of the defendant and that such negligence is a proximate cause of injury and damage.'"). Therefore, upon independent review, the court concludes that the magistrate's application of discretionary immunity to the Covid partitions and inmate-to-guard ratios is appropriate.[4] As such, plaintiff's objection five is OVERRULED.

Conclusion

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[4] Upon independent review, the court concludes that even if discretionary immunity did not apply to the Covid partitions and inmate-to-guard ratios, the magistrate appropriately concluded that "plaintiff's arguments concerning Covid-era partitions and inmate-to-guard ratios do not impute notice of an impending attack to defendant, particularly where, as here, attacks at FHC are unheard of and plaintiff was surprised by the attack." (February 23, 2026 decision of the magistrate, p. 6).

{¶37} Upon independent review, the court finds that the magistrate properly determined the factual issues and appropriately applied the law. The court adopts the magistrate's decision and recommendation as its own. Each of plaintiff's objections are hereby OVERRULED. Accordingly, judgment is rendered in favor of defendant.

LISA L. SADLER
Judge

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IN THE COURT OF CLAIMS OF OHIO

CHARLES GRANT Plaintiff v. OHIO DEPARTMENT OF REHABILITATION AND CORRECTION Defendant	Case No. 2024-00127JD Judge Lisa L. Sadler JUDGMENT ENTRY

{¶38} Upon independent review, the court finds that the magistrate properly determined the factual issues and appropriately applied the law. The court adopts the magistrate's decision and recommendation as its own. Each of plaintiff's objections are hereby OVERRULED. Accordingly, 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.

LISA L. SADLER
Judge

Filed April 24, 2026
Sent to S.C. Reporter 5/12/26