

[Cite as *Whiteside v. Orient Correctional Inst.*, 2005-Ohio-5068.]

IN THE COURT OF CLAIMS OF OHIO
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NORMAN V. WHITESIDE	:	
	:	
Plaintiff	:	CASE NO. 2002-05751
	:	Judge J. Craig Wright
v.	:	Magistrate Steven A. Larson
	:	
ORIENT CORRECTIONAL	:	<u>JUDGMENT ENTRY</u>
INSTITUTION	:	
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Defendant	:	
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{¶1} This case was tried to a magistrate of the court. On August 1, 2005, the magistrate issued a decision recommending judgment for defendant.

{¶2} Civ.R. 53(E)(3)(a) states: "A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, regardless of whether the court has adopted the decision pursuant to Civ.R. 53(E)(4)(c). ***" Plaintiff timely filed his objections. Defendant did not respond.

{¶3} In his decision, the magistrate found that plaintiff failed to establish a bailment relationship with regard to his lost property because he failed to prove delivery to defendant. Accordingly, the magistrate found that defendant had no legal duty with regard to the property.

{¶4} Although plaintiff has objected to several factual findings of the magistrate, plaintiff has failed to file a copy of the transcript for court review. Civ.R. 53(E)(3)(c) states in relevant part that "*** [a]ny objection to a finding of fact shall be supported by a transcript of all the evidence submitted to the

magistrate relevant to that fact or an affidavit of that evidence if a transcript is not available." Absent a complete transcript of proceedings in this case, the court is unable to conduct an independent review of all of the evidence in ruling upon the merits of plaintiff's objections. See State ex rel. *Duncan v. Chippewa Twp. Trustees*, 73 Ohio St.3d 728, 730, 1995-Ohio-272; *Wade v. Wade* (1996), 113 Ohio App.3d 414, 418-419; *Ohio Edison Co. v. Gilmore* (1995), 106 Ohio App.3d 6, 10-11; *Zacek v. Zacek* (1983), 11 Ohio App.3d 91, 94.

{¶ 5} Plaintiff also objects to the magistrate's legal conclusions regarding the law of bailments. Plaintiff's objection number 11 states, "*** because plaintiff was forced to leave OCI [Orient Correctional Institution] without all of his property, a bailment certainly existed, contrary to what the magistrate states.

" Plaintiff's objection number 16 states, " [r]egardless of how the magistrate wishes to paint what happened, he is unable to explain this very important fact that does in fact establish a bailment."

{¶ 6} Upon review of the magistrate's decision, the court agrees with the magistrate that plaintiff must demonstrate delivery to defendant in order for a legal duty to arise with regard to the handling and storage of the property. Accordingly, objections numbered 11 and 16 are OVERRULED.

{¶ 7} Upon review of the record, the magistrate's decision, and the objections, the court finds that the magistrate correctly analyzed the issues and applied the law to the facts. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own, including the 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.

J. CRAIG WRIGHT
Judge

Entry cc:

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