

[Cite as *Moreno v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-4458.]

IN THE COURT OF CLAIMS OF OHIO

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VICTOR MORENO :  
 :  
 Plaintiff : CASE NO. 2004-07379  
 : Judge J. Craig Wright  
 v. : Magistrate Steven A. Larson  
 :  
 OHIO DEPARTMENT OF : MAGISTRATE DECISION  
 REHABILITATION AND CORRECTION :  
 :  
 Defendant :

: : : : : : : : : : : : : : : :

{¶ 1} On July 11, 2005, defendant filed a motion to dismiss plaintiff's case pursuant to Civ.R. 41(B)(1) for failure to prosecute. The grounds for the motion are that plaintiff failed to file a pretrial statement as required by the local rules of this court, and failed to participate in the pretrial conference. Plaintiff has also failed to respond to the motion to dismiss. The court's October 25, 2004, scheduling order provides in relevant part: "Failure to appear at trial or pretrial may result in dismissal of the action pursuant to Civ. R. 41(B), or default judgment pursuant to Civ. R. 55(D)."

{¶ 2} Upon review, and for the reasons set forth in defendant's memorandum in support, the court finds that plaintiff has failed to prosecute his action. Accordingly, the magistrate recommends that defendant's motion be granted and plaintiff's case be dismissed pursuant to Civ.R. 41(B)(1).

{¶ 3} *A party may file written objections to the magistrate's decision within 14 days of the filing of the decision. A party shall not assign as error on appeal the court's adoption of any finding or conclusion of law contained in the magistrate's decision*

