

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WAYNE DOYLE,

Plaintiff,

:

Case No. 3:07-cv-003

-vs-

District Judge Thomas M. Rose

Chief Magistrate Judge Michael R. Merz

:

CLARK COUNTY PUBLIC LIBRARY,
et al.,

Defendants.

REPORT AND RECOMMENDATIONS ON PRELIMINARY INJUNCTION

This case was set for hearing on Plaintiff's request for preliminary injunctive relief at 9:30 A.M. on Monday, January 22, 2007. Notice of the hearing had been given to the parties in writing as part of the Report and Recommendations (Doc. No. 5). Defendant John McConagha was present in person and he and the Clark County Public Library were represented by attorney Lauren Ross, their trial attorney in this case. Plaintiff, however, did not appear, despite having been advised by the Court's staff on Friday, January 19, 2007, that the hearing was still scheduled and that he was required to appear.

The burden of proving entitlement to preliminary injunctive relief is, of course, on the party seeking that relief. Because Plaintiff failed to proceed as scheduled, there is no more evidence before the Court supporting preliminary injunctive relief now than there was when the motion for temporary restraining order was heard. On the same basis as given for that request, the Magistrate

Judge respectfully recommends that preliminary injunctive relief be denied.

January 22, 2007.

s/ Michael R. Merz
Chief United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is automatically extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir., 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985).