

**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.

**DECISION AND ORDER DENYING IN PART AND FINDING MOOT IN PART
PLAINTIFF'S MOTION FOR FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This case is before the Court on Plaintiff's Motion for Findings of Fact and Conclusions of Law (Doc. No. 21).

Plaintiff seems to misconceive the purpose of Fed. R. Civ. P. 52, for in the body of his Motion, he propounds certain questions to the undersigned in the nature of interrogatories, just as he spent much of the time during the temporary restraining order hearing cross-examining the undersigned. To the extent Plaintiff propounds such questions, the Motion for Findings is denied. Fed. R. Civ. P. 52 does not provide a vehicle for a litigant to cross-examine a presiding judicial officer.

Rule 52(a) provides:

In all actions tried upon the facts without a jury or with an advisory jury, the court shall find the facts specially and state separately its conclusions of law thereon, and judgment shall be entered pursuant to Rule 58; and in granting or refusing interlocutory injunctions the court shall similarly set forth the findings of fact and conclusions of law which constitute the grounds of its action. . . . The findings of a master, to the extent that the court adopts them, shall be considered

as the findings of the court.

The only matter to which this Rule arguably applies which has occurred in this case is Plaintiff's request for temporary restraining order. To the extent required by the Rule, the Magistrate Judge's proposed findings of fact and conclusions of law are embodied in the Reports and Recommendations on that request. Thus the Motion is moot as to those Reports. The Report and Recommendations as to preliminary injunction has been withdrawn, so the Motion is moot as to that Report.

Plaintiff is reminded that the Court cannot consider granting any further relief in this case until process has been served on the Defendants. According to the docket, process still has not been issued in this case.

February 2, 2007.

s/ Michael R. Merz
Chief United States Magistrate Judge