

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

WAYNE DOYLE

Case No. C-3-07-0003

Plaintiff,

District Judge Thomas M. Rose

Vs.

Chief Magistrate Judge Michael Merz

CLARK COUNTY PUBLIC LIBRARY
AND JOHN Mc Conagha, et al.,

MOTION'S FOR:

1. This Court to allow Plaintiff Wayne Doyle leave to file a response to Defendant's 8/09/2007 response to Plaintiff's objection to Magistrate Judge's substituted report and recommendations; decisions and entry (out of rule) fore Plaintiff Wayne Doyle (Mistakenly) got the dates mixed up to respond.
2. Objection to any and all of Judge Thomas M. Rose 8/20/2007 entry and order adopting Chief Magistrate Merz's substitute report and recommendations (Doc. #65) and correction of report and recommendations (Doc. #66) overruling and denying Plaintiff's objections and motions (Doc. #67) dismissing Plaintiff's complaint.
3. Motion for Judge Rose and Magistrate Merz to remove themselves as (Judges) over this case for too many mistakes have been made on the record to discriminate against Plaintiff Wayne Doyle civil rights as a citizen of the United States.

PRECEDENT CASE OF FIRST IMPRESSION
IN THE UNITED STATES DISTRICT COURT

Wayne Doyle

**FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

IN SUPPORT OF THE FOREGOING AND AFTER

On 8/14/2007, I, Wayne Doyle received the (2nd) response from the defendants to the (2^o) pleadings I have filed with this court. The Court (Magistrate Merz and Judge Rose) have been responding for and defending the the Defendants positions. For I could not get to Dayton Ohio in time enough to respond to the defendant's motion. 1. See transcriptions of proceedings. 2. See notarized statement.

On 8/9/2007, Defendant's said: "The Chief Magistrate Judge commented during a conversation with Plaintiff about how lawyers sometimes use the word "knowing to mean whether a person actually saw or heard an event and questioning the Chief Magistrate Judge's conclusion that Defendant Mc Conagha did not discriminate against him because of race and gender because he was not there to see or hear what had occurred." Plaintiff Wayne Doyle's response to Defendant's position. First of ALL,

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The 1/5/2007, Court hearing was a recorded legal proceeding held by the Court (Judge Merz). Any and all statements made on the record is not subject to private interpretations. The record speaks for it's self. That is why Plaintiff Wayne Doyle has been asking this court for finding of fact and conclusion's of law concerning Judge Merz commented conversation the defendant's reference in their 08/09/2007, response. See transcript of the 1/5/2007, court proceeding.

On 08/09/2007, Defendant's said: "To start any error in issuing the Initial Report and Recommendation was cured when the Chief Magistrate Judge reopened the matter, considered Plaintiff's response" to Defendant' Motion to Dismiss, and issued a Substituted Report and Recommendation. Thus, Plaintiff has no basis to challenge the Chief Magisstrate Judge's findings under the procedural challenge; rather, he must challenge the substantive rational behind those findings---somenting he fails to do. Plaintiff Wayne Doyle's response to Defendant's position. Second of all,

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The court has admitted to error (4) times against Plaintiff Wayne Doyle. Because of Judge Merz (**error's**) Plaintiff Wayne Doyle has basis for a procedural and substantive challenge of Chief Magistrate Judge Merz and Judge Rose rational behind their findings. See Plaintiff Doyle's motion for finding of facts and conclusions of law.

On 08/09/2007, Defendant's said: "In addition, it was unnecessary for the Chief Magistrate Judge to observe the alleged facts of the case before concluding that Plaintiff's race and gender discrimination claims have no merit. Indeed, it would be entirely improper for him to be a witness to the alleged events and also decide the case. Rather, it is Plaintiff's responsibility to **allege facts to support his discrimination claim.** This he fails to do." Plaintiff Wayne Doyle's response to the Defendant's position. Thirdly, It is necessary for the Chief Magistrate Judge to observe the alleged facts of the case before concluding that Plaintiff's race and gender discrimination claims have no merit. Indeed,

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It has been entirely improper for Judge Merz to be a witness to the alleged events and also decide the case. See transcript of court hearing 1/5/2007. The alleged facts to support Wayne Doyle's discrimination claims:

1. Library Director John Mc Conagha is a white man who banned Wayne Doyle a black man from a public library on the alleged word of a (UNKNOWN-UNSEEN) woman (ANGIE JONES) who the director nor Plaintiff Wayne Doyle have not met. Wayne Doyle states for the record that Angie Jones is a White Woman.
2. Mc Conagha said: "Doyle was not able to offer an explanation of why the complaintant would fabricate such a story. The ban from the library was upheld.
3. Angie Jones nor any one else have come forth on the record to accuse Plaintiff Doyle of any wrong doings, black or white.
4. Plaintiff Wayne Doyle has a notorized statement on the record saying "I do not know Angie Jones nor have I harrassed anyone.
5. 10/23/2006, Director John Mc Conagha said: There is no written statement from Angie Jones.
6. 11/6/2006, Director John McConagha said:"We do not have a recorded statement from Angie Jones.
7. 11/16/2006, Director John Mc Conagha said: "No Charges have been filed.
8. 1/5/2007, Judge Merz said: "a. We don't have a witness statement. The only evidence we have is that Mc Conagha said it was made He's not a witness to what happened in the library. She understands that and I do to. There has never been a tape recording.
9. 1/5/2007, Doyle said: " If I haven't faced the patron then, how do they know it was me?

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Special attention should be given to the following question's and answer's

-Mr. Doyle: So do we go on Mr McConagha statement or the witness statement?

-The COURT: We don't have a witness statement so I guess what I'm hearing you say is that somehow it was a violation of your due process rights for the library to exclude you on the basis of a statement that only the director witnessed? Is that what you are saying?

-MR DOYLE: Let me ask you, Mr. Merz, is that the law?

Never Answered

-THE COURT: I don't know yet. I haven't had a chance to do any research in this particular area because I wanted to get this conference going as quickly as possible, to find out what the positions of the parties were and then ---and then do the research once I had a second or two to do that..

-MR DOYLE: Can Mc Conagha be a witness?

-THE COURT: To what?

-MR DOYLE: Of what happened in the library.



-THE COURT: No he is not a witness of what happened in the library. As far as I know , It's---there isn't any other witness besides Angie Jones.

-THE COURT: She---knowing, sometimes lawyers, lawyers will use the word "knowing" really to mean: Did I see it or did I hear it. She was'nt there , so she doesn't know in that sense, same as me. But her understanding is that Mr. Mc Conagha is telling the truth in this letter and, according to what you've told us, that's accurate, that you and your lawyer and McConagha were the only persons who were there.

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-MR DOYLE: So what evidence was presented at the hearing?

-MR DOYLE: Is, is, is that legal evidence for a security officer to supposedly take a person's , you know, accusations on another person?



-THE COURT: That's what we have to decide.

-THE COURT: But of course the whole question that this case seems to raise, is whether Mr McConagha, or whether any public library has to follow rules of evidence such as are applicable in criminal court.

-MR DOYLE: Could that just be hearsay evidence?

-THE COURT: It is hearsay.

-MR DOYLE: Does the Constitution allow a person to face their accuser?

-THE COURT: In a criminal case, yes.

-MR DOYLE: What about any other case?

-THE COURT: Not necessarily.

-THE COURT: On grounds of harrassing a patron. That's the way I read it anyway

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_DOYLE: If I haven't faced the patron then, how do they know it was me?

-THE COURT: Well, because I guess—

_MR DOYLE: My question was still not answered. In other words, how do they know that it was me?

-THE COURT: She's already answered that question to the extent that she knows. That is that there's a police officer and a security guard who saw you on the premises . and Miss Jones says it was you. And that's all hearsay. And that's all Mc Conagha had to go on.

_MR DOYLE: That's hearsay.

_THE COURT: Yes, it is.

RELIEF SOUGHT

Rule 12.e Motion for more Definite Statement.

If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably ~~be~~ required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out defects complained of and the details desired.

Springfield man's suit: 'Reading while Black'

By GILBERT PRICE
Senior Editor

Wayne Doyle wasn't trying to make trouble. The Springfield man just enjoyed going to the Clark County Library and hanging out.

So why was he banned from going into the library for two years? He believes there's only one reason: because of his race. And he's filed a suit in federal court making his case.

Doyle is suing Clark County Library Director John McConagha and the Clark County Library for \$350,000 in damages for denying him his civil rights in the two-year banishment. The case is being heard by Federal District Court Judge Thomas Rose in Dayton.

Doyle was banned from the Clark County Library after a security guard

filed an incident report charging that a woman had complained that Doyle "was following her around the library, and making her feel uncomfortable."

He was banned from March 21, 2005, to March 21, 2007.

But Doyle denied the charge.

"I was just a regular patron, a person who went in and out," Doyle said. "I was just passing the time. I did a lot of studying on different subjects."

He did not know of any other complaints against him. He said the banishment was part of a vendetta by the leadership of the Clark County Library.

"They wanted me out of the library because a couple of the workers wanted me out years ago," Doyle charged.

The allegations against him began under the administration of former Clark County Library Director Bob Saunter, who had questioned him for years

regarding allegations that he had harassed women at the library.

"I would go to the director, they would call me in, and ask me if I had done it. I would say, 'no, I didn't do it.'" Doyle said.

When McConagha took over, the allegations did not end.

Doyle charged that McConagha read the past allegations, "and he just took it upon himself" to act against Doyle. The library administration "fabricated a story and made up a name with security."

"The new director didn't even know me," Doyle said, calling the allegations "a big bunch of hearsay stuff."

He denies harassing anyone, and said he has never been arrested for harassment.

When Doyle entered the library on March 21, 2005, he was handed the ban- (See **READING** Page 7A)

Reading

rom 1A
ment letter. In any event, he as never given the opportunity to confront his accuser or even give his side of the story.

The Clark County Library s refused comment on the se. But in a letter to Doyle'sorney dated April 25, 2005,er Doyle had been banned, cConagha explained the reas for his ban.

McConagha said in the letter that he had confirmed the account of the woman involved - who was African-American - and said that Doyle had not been able to effectively account for his behavior.

"Although he denied the Complainant's report of what happened, Mr. Doyle was not able to offer any explanation of why the Complainant would fabricate such a story," McConagha's letter said.

Although the ban has been lifted, Doyle hasn't returned to the library.

"I don't feel comfortable going in there if my rights are not protected," Doyle said.

CALL

AND

Post

PUBLIC CONCERN

FOR THIS COURT'S REVIEW

On 1/04/07 Mr Richard Higginbotham was barred from the library for looking in the direction on a white woman. Racial Discrimination (see Exhibit 12) class action suit , Richard Higginbotham story and ban letter.

FACTS FOR THIS COURT TO REVIEW.

1. THE 3/18/2005, INCIDENT TAKEN BY THE SECURITY OFFICER REPORT DOES NOT INDICATE THAT ANGIE JONES IS A BLACK WOMAN.
2. JOHN MC CONAGHA SAID HE BASED HIS DECISION OF THE SECURITY OFFICER'S REPORT, FORE HE DID NOT INDICATE THAT HE HAD MET ANGIE JONES IN PERSON.
3. NO VICTIM HAS COME FORTH TO REPORT A CRIME ON THE RECORD FOR THIS COURT'S REVIEW. AS STATED BY JUDGE MERZ: ITS ALL HEARSAY ABOUT ALL THE EVIDENCE BROUGHT AGAINST PLAINTIFF DOYLE.
4. WAYNE DOYLE STATES THAT ANGIE JONES IS A WHITE WOMAN WHO WAS CREATED IN JOHN MC CONAGHA WHITE RACIST MIND TO BAR ME FROM COMING INTO THE LIBRARY.

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1/5/2007, Merz said: She's already answered the question to the extent that she knows. That is that there's a police officer and a Security guard who saw you on the premisis and Miss Jones says it was you. And that's all hearsay. And that's all McConagha had to go on. See 1/5/2007, transcript of court hearing.

8.REMAND THIS CASE BACK TO THE DISTRICT COURT TO AFFORD PLAINTIFF WAYNE DOYLE HIS RIGHT TO FACE THE ACCUSER'S

SERVICE

MAILED TO LOIS A. GRUGIN
21 EAST STATE STREET
COLUMBUS, OHIO 43215
THIS 24TH DAY OF AUGUST 2007.

WAYNE DOYLE
202 SOUTHERN AVENUE
SPRINGFIELD, OHIO 45506

Wayne Doyle