

[Cite as *Semenchuk v. Mansfield Correctional Inst.*, 2003-Ohio-5316.]

IN THE COURT OF CLAIMS OF OHIO

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|-------------------------------------|---|-------------------------|
| ALLEN J. SEMENCHUK | : | |
| Plaintiff | : | CASE NO. 2001-11090 |
| | : | Judge Fred J. Shoemaker |
| v. | : | |
| | : | <u>JUDGMENT ENTRY</u> |
| MANSFIELD CORRECTIONAL INST. | : | |
| Defendant | : | |
| : : : : : : : : : : : : : : : : : : | | |

{¶1} This case was tried to a magistrate of the court. On July 30, 2003, the magistrate issued a decision recommending judgment for defendant.

{¶2} Civ.R. 53(E)(3)(a) provides in relevant part: "Within 14 days of the filing of a magistrate's decision, a party may file written objections to the magistrate's decision ***." Plaintiff timely filed objections. Defendant has filed a response.

{¶3} In plaintiff's objections, plaintiff challenges several of the magistrate's factual findings made by the magistrate in support of the recommendation. However, Civ.R. 53(E)(3)(c) reads, in pertinent part: "*** Any 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. ***"

{¶4} Plaintiff has failed to support the objections with a transcript as required by Civ.R. 53(E)(3)(c). Absent the required transcript, the court is unable to conduct an independent review 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. Accordingly plaintiff's objections are OVERRULED.

{¶5} Upon review of the record, and the magistrate's decision, the court determines that there is no error of law or other defect on the face of the magistrate's decision. Therefore, 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.

FRED J. SHOEMAKER
Judge

Entry cc:

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