

[Cite as *Will v. Ohio Dept. of Rehab. & Corr.*, 2006-Ohio-4347.]

IN THE COURT OF CLAIMS OF OHIO
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RONALD WILL :
 :
 Plaintiff : CASE NO. 2005-06813
 : Judge J. Craig Wright
 v. : Magistrate Steven A. Larson
 :
 DEPARTMENT OF REHABILITATION : MAGISTRATE DECISION
 AND CORRECTION :
 Defendant :
 : : : : : :
 : : : : :

{¶ 1} On June 23, 2006, the court conducted a pretrial conference with the parties. As a result of the conference, the court learned that the parties are prepared for trial as scheduled for July 24, 2006.

{¶ 2} On another matter, defendant filed a motion for summary judgment on May 8, 2006. Plaintiff filed a response on June 12, 2006. Defendant filed a motion to strike plaintiff's response as untimely on June 16, 2006, and plaintiff filed a memorandum contra and motion for extension of time on June 22, 2006. Plaintiff's motion for leave to respond to defendant's motion for summary judgment is GRANTED instanter and defendant's motion to strike is hereby DENIED.

{¶ 3} Civ.R. 56(C) states, in part, as follows:

{¶ 4} "*** Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the

moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor. ***" See, also, *Gilbert v. Summit County*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing, *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 5} Plaintiff has asserted claims of conversion and defamation. Upon review, and construing the evidence in plaintiff's favor, genuine issues of material fact exist as to both of plaintiff's claims. Accordingly, it is recommended that defendant's motion for summary judgment be denied.

STEVEN A. LARSON
Magistrate

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