

Court of Claims of Ohio

The Ohio Judicial Center
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ERVIN TRIPLETT, JR.

Case No. 2005-08701

Plaintiff

Judge J. Craig Wright
Magistrate Steven A. Larson

v.

JUDGMENT ENTRY

SOUTHERN OHIO CORRECTIONAL
FACILITY

Defendant

{¶1} On August 4, 2006, an oral hearing was held before a magistrate of the court on the parties' cross-motions for summary judgment. On October 6, 2006, the magistrate issued a decision recommending defendant's motion for summary judgment be granted and plaintiff's motion for summary judgment be denied.

{¶2} Civ.R. 53(E)(3)(a) states: "A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, regardless of whether the court has adopted the decision pursuant to Civ.R. 53(E)(4)(c). ***"

{¶3} On October 10, 2006, plaintiff filed a motion for declaratory judgment. On October 12, 2006, defendant filed a response to plaintiff's motion for declaratory judgment. On October 13, 2006, plaintiff filed his objections to the magistrate's decision. On October 16, 2006, defendant filed a response to plaintiff's objections. Finally, on October 30, 2006, plaintiff filed an affidavit in support of his objections to the magistrate's decision in lieu of a transcript of the proceedings.

{¶4} Upon review of plaintiff's October 10, 2006, motion for declaratory judgment, the court finds that the motion reiterates the arguments already presented at both the oral hearing and in plaintiff's motion for summary judgment. Defendant argues that the motion lacks evidentiary support and does not rise to the requisite burden of proof for declaratory judgment. The court agrees. Accordingly, plaintiff's motion for declaratory judgment is hereby DENIED.

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{¶5} The crux of plaintiff’s objections to the magistrate’s decision is that “[t]he [d]ecision is contrary to the applicable law cited” and that the “decision explicitly ignores *** material facts and documents.” Plaintiff’s objections are a restatement of the arguments plaintiff made at the oral hearing in support of his motion for summary judgment.

{¶6} Upon review, 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 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.

J. CRAIG WRIGHT
Judge

cc:

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