

Court of Claims of Ohio

The Ohio Judicial Center
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RONNIE LEE WALLACE

Plaintiff

v.

GRAFTON CORRECTIONAL INSTITUTION

Defendant

Case No. 2009-07024

Judge Clark B. Weaver Sr.
Magistrate Robert Van Schoyck

JUDGMENT ENTRY

{¶ 1} On January 5, 2011, the magistrate issued a decision recommending judgment for defendant.

{¶ 2} Civ.R. 53(D)(3)(b)(i) states, in part: “A party may file written objections to a magistrate’s decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i).” Plaintiff timely filed his objection.

{¶ 3} Plaintiff’s objection challenges several factual findings made by the magistrate. Plaintiff, however, failed to support his objection with a transcript of proceedings. Civ.R. 53(D)(3)(b)(iii) states that “[a]n objection to a factual finding, whether or not specifically designated as a finding of fact under Civ. R. 53(D)(3)(a)(ii), shall be supported by a transcript of all the evidence submitted to the magistrate relevant to that finding or an affidavit of that evidence if a transcript is not available.” Inasmuch as the factual findings contained in the magistrate’s decision support the magistrate’s conclusions, plaintiff’s objection is without merit.

{¶ 4} Similarly, to the extent that plaintiff's objection seeks an order allowing him to recall a fact witness, and for leave to consult with an expert witness and then call that expert to testify in the case, plaintiff has failed to demonstrate to the court "that [he] could not, with reasonable diligence, have produced that evidence for consideration by the magistrate." See Civ.R. 53(D)(4)(d).

{¶ 5} Upon review of the record, the magistrate's decision and the objections, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. Therefore, the objection is OVERRULED and the court adopts the magistrate's decision and recommendation as its own, including 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.

CLARK B. WEAVER SR.
Judge

cc:

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LP/cmd
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