

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

MR. ANTHONY DOWERY

Plaintiff

v.

LORAIN CORRECTIONAL INSTITUTION

Defendant

Case No. 2010-01310

Judge Clark B. Weaver Sr.
Magistrate Matthew C. Rambo

JUDGMENT ENTRY

{¶ 1} On April 8, 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).” On April 21, 2011, plaintiff filed his objection.¹ On April 25, 2011, defendant filed a response.

{¶ 3} The magistrate found that on April 1, 2008, plaintiff was to be released from the custody and control of defendant. The process required plaintiff to be transported by van to the front of defendant’s main building where he was to be met by members of his family. As he exited the van, plaintiff fell to the ground and was injured. The magistrate determined that plaintiff’s failure to exercise reasonable care for his own

¹The court construes plaintiff’s April 21, 2011 “motion in opposition to magistrate decision pursuant to Civ.R.

safety while exiting the van was the sole proximate cause of his injuries.

{¶ 4} Plaintiff's objection challenges several factual findings made by the magistrate. Plaintiff, however, failed to support his objection with a transcript of the 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." Accordingly, plaintiff's objection shall be overruled. Furthermore, to the extent that plaintiff's objection asserts that the magistrate's decision is not supported by the weight of the evidence, the court finds that the factual findings contained in the magistrate's decision support the magistrate's legal conclusions.

{¶ 5} Upon review of the record, the magistrate's decision and the objection, 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:

53(D)(4)(e)(i)" as an objection to the magistrate's decision.

Case No. 2010-01310

- 3 -

JUDGMENT ENTRY

Amy S. Brown
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Mr. Anthony Dowery, #560-580
940 Williamsport Road
Marion, Ohio 43301

GWP/dms
Filed June 6, 2011
To S.C. reporter June 22, 2011