

Court of Claims of Ohio

The Ohio Judicial Center
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JIMMY LEWIS MORGAN

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2010-01476

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

JUDGMENT ENTRY

{¶ 1} On April 11, 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 25, 2011, plaintiff filed his objections. On April 26, 2011, defendant filed a response and on May 3, 2011, plaintiff filed a reply.

{¶ 3} According to the magistrate’s decision, on December 3, 2008, plaintiff was transferred from the Marion Correctional Institution to the Mansfield Correctional Institution (ManCI); however, plaintiff’s legal material was not packed up and sent with him at that time. While at ManCI, plaintiff sent a letter to Warden Maggie Beightler and filed a grievance with Gary Croft, defendant’s Chief Inspector, regarding the missing legal materials. According to plaintiff, Croft improperly denied his grievance and plaintiff

did not receive a response to his letter. Plaintiff's legal material was returned to him on January 29, 2010.

{¶ 4} Although plaintiff has not numbered his objections, plaintiff's objections challenge both the magistrate's conclusion that the state is entitled to discretionary immunity regarding a grievance decision issued by Croft and the magistrate's conclusion that Croft and Beightler are entitled to civil immunity pursuant to R.C. 2743.02(F) and 9.86.

{¶ 5} To the extent that plaintiff challenges the factual findings underlying the magistrate's decision, plaintiff failed to support his objections 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." Inasmuch as the factual findings contained in the magistrate's decision support the magistrate's legal conclusions, plaintiff's objections are without merit.

{¶ 6} With respect to Croft's denial of plaintiff's grievance, the court agrees that such a decision is characterized by a high degree of official judgment or discretion and that defendant is entitled to discretionary immunity from suits arising out of such decisions. See *Reynolds v. State* (1984), 14 Ohio St.3d 68, 70.

{¶ 7} With regard to the magistrate's conclusion that Croft and Beightler are entitled to civil immunity pursuant to R.C. 2743.02(F) and 9.86, the magistrate found that both Croft and Beightler were state employees and that plaintiff did not provide any evidence to support his allegation that either employee acted outside the scope of their employment, with a malicious purpose, or in a wanton or reckless manner. The court agrees with the magistrate's conclusion.

{¶ 8} Upon review of the record, the magistrate's decision and plaintiff's objection, the court finds that the magistrate has properly determined the factual issues

and appropriately applied the law. Therefore, the objections are 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/GWP/cmd
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