

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

BARRELL BROWN

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2007-05971

Judge Joseph T. Clark
Magistrate Steven A. Larson

JUDGMENT ENTRY

{¶ 1} On August 28, 2009, 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 September 11, 2009, plaintiff filed a single objection asserting that the magistrate’s decision is against the manifest weight of the evidence. On September 18, 2009, defendant filed a response.

{¶ 3} Civ.R. 53(D)(3)(b)(iii) states: “An 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. * * * The objecting party shall file the transcript or affidavit with the court within thirty days after filing objections unless the court extends the time in writing for preparation of the transcript or

other good cause. If a party files timely objections prior to the date on which a transcript is prepared, the party may seek leave of court to supplement the objections.”

{¶ 4} Inasmuch as plaintiff’s objection pertains to factual findings made by the magistrate, plaintiff was required to support his objection with a trial transcript or affidavit. See *Baddour v. Rehab. Serv. Comm.*, Franklin App. No. 04AP-1090, 2005-Ohio-5698, ¶ 25-26. Plaintiff’s failure to file a transcript or affidavit leaves the court unable to review the alleged error raised in his objection. Accordingly, plaintiff’s objection is OVERRULED.

{¶ 5} The court determines that there is no error of law or other defect evident on the face of the magistrate’s decision. Therefore, 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.

JOSEPH T. CLARK
Judge

cc:

Eric A. Walker
Velda K. Hofacker Carr
Assistant Attorneys General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

T. Tod Mollaun
Maislin Professional Center
214 East Ninth Street, 5th Floor
Cincinnati, Ohio 45202

Magistrate Steven A. Larson

RCV/cmd
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