

[Cite as *Kajfasz v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-5115.]

IN THE COURT OF CLAIMS OF OHIO

JAMES R. KAJFASZ :
Plaintiff : CASE NO. 2001-05529
v. : JUDGMENT ENTRY
DEPARTMENT OF REHABILITATION :
AND CORRECTION :
Defendant :
: : : : : : : : : : : : : : : :

{¶1} This case was tried to a magistrate of the court. On July 31, 2002, the magistrate issued a decision recommending judgment for defendant.

{¶2} Civ.R. 53 states: "Within 14 days of the filing of a magistrate's decision, a party may file written objections to the magistrate's decision." Plaintiff timely filed his objections. Defendant did not file a response to plaintiff's objections. On September 11, 2002, plaintiff filed supplemental objections to the magistrate's decision. Plaintiff's supplemental objections are not authorized by the Ohio Rules of Civil Procedure and are hereby STRICKEN.

{¶3} Although plaintiff alleges in his objections that he cannot afford a transcript of proceedings before the magistrate, plaintiff has not availed himself of the opportunity to file an affidavit of the evidence under Civ.R. 53(E)(3)(b). Consequently, the court will confine its review of the magistrate's factual findings to an examination of the magistrate's decision. Civ.R. 53(E)(3)(b). Upon review of the magistrate's decision, the court

concludes that the magistrate found sufficient facts to support his conclusions. Therefore, plaintiff's objection is OVERRULED. Plaintiff's remaining objection challenges, generally, the magistrate's decision on the admission and scope of witness testimony and his determination of witness credibility and bias. Plaintiff has failed to state his objections with specificity as required by Civ.R. 53(E)(3)(b) and has failed to provide a transcript of proceedings or affidavit of the evidence to establish the facts underlying his objections. Moreover, it is within the sound discretion of the trier of fact to make decisions regarding admissibility and the mode and order of interrogation. See Evid. R. 104 and 611. Plaintiff has failed to demonstrate any error by the magistrate in this regard. Accordingly, plaintiff's remaining objection is OVERRULED.

{¶4} Upon review of the record, the magistrate's decision and the objections, the court finds that the magistrate correctly analyzed the issues and applied the law to the facts. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own. 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.

JUDGE

Entry cc:

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Pro se

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JUDGMENT ENTRY

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