

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

TERRELL D. JORDAN,	:	APPEAL NO. C-230528
	:	TRIAL NO. 23CV-06285
Plaintiff-Appellant,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
WYNN GAP,	:	
Defendant-Appellee.	:	

This court sua sponte removes this cause from the regular calendar and places it on the court's accelerated calendar, Loc.R. 11.1(C)(1), and this judgment entry is not an opinion of the court. *See* Rep.Op.R. 3.1; App.R. 11.1(E); Loc.R. 11.1.

Plaintiff-appellant Terrell D. Jordan appeals from the judgment of the trial court adopting the magistrate's decision, which granted summary judgment in favor of defendant-appellee Wynn Gap on Jordan's claim for money damages.

Jordan brings this appeal pro se and challenges the trial court's judgment in a single assignment of error. Liberally construing the assignment of error within the context of his brief and the record, we interpret Jordan's argument to be that the trial court erred in granting summary judgment in favor of Wynn Gap without providing him a fair opportunity to be heard.

The record indicates that, after briefing was submitted by both parties and the magistrate held a hearing, which Jordan failed to attend, the magistrate entered an order granting summary judgment in favor of Wynn Gap on September 8, 2023. This entry was mailed to the parties. However, in contravention of Civ.R. 53(D)(3)(a)(iii), the entry does not indicate in the caption that it is a magistrate's decision, nor does it in any way notify the parties that they must object to the magistrate's factual findings or legal conclusions in order to preserve the issues for appeal.

Because the magistrate failed to follow the mandates of Civ.R. 53, it cannot be said that Jordan was provided a meaningful opportunity to file objections to the magistrate's decision and preserve issues for appeal. *See, e.g., Williams v. Ormsby*, 9th Dist. Medina No. 09CA0080-M, 2010-Ohio-3666, ¶ 12; *see generally, e.g., Walters v. Lewis*, 7th Dist. Mahoning No. 15 MA 0135, 2016-Ohio-1064, ¶ 19. The denial of such a meaningful opportunity amounts to prejudicial error. *Id.* Consequently, we sustain the assignment of

error, reverse the judgment of the trial court, and remand this cause for the trial court to provide Jordan with a meaningful opportunity to file objections to the magistrate's decision.

The court further orders that 1) a copy of this Judgment constitutes the mandate, and 2) the mandate be sent to the trial court for execution under App.R. 27.

ZAYAS, P.J., CROUSE and WINKLER, JJ.

To the clerk:

Enter upon the Journal of the Court on 7/10/2024 per Order of the Court.

By: _____
Administrative Judge