

[Cite as *Dvorak v. Pickaway Corr. Inst.*, 2002-Ohio-1699.]

IN THE COURT OF CLAIMS OF OHIO

DENNIS R. DVORAK

:

Plaintiff :

CASE NO. 2001-11901

v.

:

ENTRY OF DISMISSAL

PICKAWAY CORRECTIONAL
INSTITUTE

:

:

Defendant

: : : : : : : : : : :

{¶1} On December 31, 2001, defendant filed a motion to dismiss. On February 6, 2002, plaintiff filed a response to defendant's motion and a motion for a waiver of the requirements of R.C. 2305.02. On February 19, 2002, defendant filed a memorandum contra plaintiff's motion for a waiver.

{¶2} Plaintiff brought this action pursuant to R.C. 2743.48(D). (Complaint at paragraph 1.)

{¶3} R.C. 2743.48, in pertinent part, states:

{¶4} (B)(1) When a court of common pleas determines, on or after September 24, 1986, that a person is a wrongfully imprisoned individual, the court shall provide the person with a copy of this section and orally inform him and his attorney of his rights under this section to commence a civil action against the state in the court of claims because of his wrongful imprisonment and to be represented in that civil action by counsel of his own choice.

{¶5} (D) Notwithstanding any provisions of this chapter to the contrary, a wrongfully imprisoned individual has and may file a civil action against the state, in the court of claims, to recover a sum of money as described in this section, because of his wrongful imprisonment. The court of claims shall have exclusive, original jurisdiction over such a civil action. The civil action shall proceed, be heard, and be

determined as provided in sections 2743.01 to 2743.20 of the Revised Code, except that if a provision of this section conflicts with a provision in any of those sections, the provision in this section controls.

{¶6} (E)(1) In a civil action as described in division (D) of this section, the complainant may establish that he is a wrongfully imprisoned individual by submitting to the court of claims a certified copy of the judgment entry of the court of common pleas associated with his conviction and sentencing, and a certified copy of the entry of the determination of a court of common pleas that he is a wrongfully imprisoned individual. ***

{¶7} R.C. 2305.02 states:

{¶8} A court of common pleas has exclusive, original jurisdiction to hear and determine an action or proceeding that is commenced by an individual who satisfies divisions (A)(1) to (4) of section 2743.48 of the Revised Code and that seeks a determination by the court that the offense of which he was found guilty, including all lesser-included offenses, either was not committed by him or was not committed by any person. If the court enters the requested determination, it shall comply with division (B) of that section.

{¶9} This court is without jurisdiction to waive the requirements of R.C. 2305.02. Accordingly, plaintiff's motion for a waiver is OVERRULED.

{¶10} Plaintiff has failed to provide this court with a certified copy of a common pleas court entry holding that he was a wrongfully imprisoned individual. Accordingly, the court finds that plaintiff has failed to comply with the requirements of R.C. 2743.48.

{¶11} For the foregoing reasons, defendant's motion to dismiss is GRANTED and plaintiff's case is hereby DISMISSED. 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:

Case No. 2001-11901

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ENTRY

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