

[Cite as *King v. Ohio Dept. of Corr.*, 2002-Ohio-1713.]

IN THE COURT OF CLAIMS OF OHIO

ALFRED S. KING

:

Plaintiff :

CASE NO. 2001-08196

v.

:

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

OHIO DEPARTMENT OF CORRECTIONS :

Defendant :

::::::::::::::::::

{¶1} On February 20, 2002, defendant filed a motion for summary judgment. To date, plaintiff has not filed a response. This matter is now before the court for a non-oral hearing on defendant's motion.

{¶2} Civ.R. 56(C) states, in part, as follows:

{¶3} "Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor." See, also, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶4} At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant pursuant to R.C. 5120.16. Plaintiff alleges that defendant retaliated against him by removing him from his assigned work program. Plaintiff alleges that the removal was based upon a

complaint that he made to the deputy director of prisons concerning alleged misconduct by a corrections officer. Defendant denies liability and argues that the court lacks subject matter jurisdiction over plaintiff's claims.

{¶5} This court lacks subject matter jurisdiction over alleged violations of constitutional rights and claims arising under Section 1983, Title 42, U.S. Code. *Bleicher v. Univ. of Cincinnati* (1992), 78 Ohio App.3d 302. In *Deavors v. Ohio Dept. of Rehab. and Corr.* (May 20, 1999), Franklin App. No. 98AP-1105, the court held that an inmate's claims regarding retaliatory conduct are properly classified as constitutional claims actionable under Section 1983, Title 42, U.S. Code.

{¶6} Upon review, this court finds that it lacks subject matter jurisdiction over plaintiff's retaliatory conduct claims. Accordingly, defendant's motion for summary judgment is GRANTED and 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:

Alfred S. King
40 W. Long Street
Room 446
Columbus, Ohio 43215

Pro se

Lisa M. Donato
Tracy M. Greuel
65 East State St., 16th Fl.
Columbus, Ohio 43215

Assistant Attorneys General

KWP/cmd
Filed 3-29-2002
Jr. Vol. 700, Pgs. 76-78
To S.C. reporter 4-15-2002