

[Cite as *McIntyre v. Mansfield Correctional Inst.*, 2003-Ohio-4485.]

IN THE COURT OF CLAIMS OF OHIO

LEROY L. MCINTYRE	:	
Plaintiff	:	
v.	:	CASE NO. 2003-02616-AD
MANSFIELD CORRECTIONAL INSTITUTION	:	<u>ENTRY OF DISMISSAL</u>
Defendant	:	
	:	

{¶1} THE COURT FINDS THAT:

{¶2} 1) On February 21, 2003, plaintiff, Leroy L. McIntyre, filed a complaint against defendant, Mansfield Correctional Institution. Plaintiff alleges that on January 1, 2002 and on April 25, 2002, defendant sent money from his inmate account to Summit County Child Support Enforcement Agency (SCCSEA) in excess of money the agency was authorized to take from his inmate account. On January 1, 2002, defendant sent the SCCSEA \$687.96 and on April 25, 2002, the same agency was sent \$12.00. Plaintiff contends defendant should not have sent SCCSEA more than \$5.10 in any given month. Consequently, plaintiff seeks the return of \$689.76 from defendant;

{¶3} 2) On April 17, 2003, defendant filed a motion to dismiss;

{¶4} 3) The motion to dismiss in pertinent part stated:

{¶5} "On or about January 21, 2000, Defendant received notice from the Summit County Prosecutor's Office that Plaintiff owed \$9,783.89 to the County of Summit Child Support Enforcement Agency (Exhibit A). That notice further requested Defendant to collect that judgment. On February 4, 2000, Plaintiff received notice from Defendant's agent of a hold on his account and the relevant papers such as the certified Court Order

and statement of judgment amount (Exhibit C). Plaintiff did not notify Defendant's agents of any exemption from collection of the court-ordered debt.

{¶6} "Pursuant to Ohio Revised Code §5120.133 and Rule 5120-5-03 of the Administrative Code, the Defendant withdrew \$699.96 from the Plaintiff's inmate account and mailed checks to the Summit County Child Support Enforcement Agency in order to pay the Court Order of the Common Pleas Court of Summit County. Defendant complied with its statutory and rule duties.

{¶7} "The order requiring payment of child support was a final appealable order of the Common Pleas Court of Summit County. The Court of Claims of Ohio is a court of original jurisdiction, therefore, it does not have appellate jurisdiction over any court or agency. ORC §2743.03 This Court is, therefore, without jurisdiction to determine the issues raised in this complaint by reviewing the court order ordering payment of child support. *Bristow v. Marion Correctional Institution* (1997), Court of Claims Case No. 96-08105-AD, unreported case, copy attached (Exhibit D). The order also may not be attacked collaterally in this Court.

{¶8} "The Defendant has acted in accordance with ORC §5120.133 (Exhibit E) and Administrative Rule 5120-5-02 (Exhibit F) and consistent with the Common Pleas Court Order pursuant to the request of the Prosecuting Attorney's Office, on behalf of the Child Support Enforcement Agency, therefore, the Plaintiff's case must be dismissed *Bristow, supra.*";

{¶9} 4) On May 20, 2003, plaintiff filed a motion in opposition to defendant's motion to dismiss and a motion for summary judgment;

{¶10} 5) Plaintiff contends that since his minor daughter has reached the age of majority and graduated from high school child support payments should be terminated. Plaintiff contends the issue of arrearages was addressed in earlier court order which defendant acknowledged but misinterpreted;

{¶11} 6) A review of the evidence submitted by both parties reveals that amount

of arrearages is a matter that should be litigated in Summit County not the Court of Claims.

{¶12} THE COURT CONCLUDES THAT:

{¶13} 1) Defendant released the money in compliance with a valid request from the Summit County's Child Support Enforcement Agency as authorized by the Juvenile Division of the Summit County Court of Common Pleas;

{¶14} 2) R.C. 2743.03 states, in part:

{¶15} "The court of claims is a court of record and has exclusive, original jurisdiction of all civil actions against the state permitted by the waiver of immunity contained in section 2743.02 of the Revised Code, exclusive jurisdiction of the causes of action of all parties in civil actions that are removed to the court of claims, and jurisdiction to hear appeals from the decisions of the court of claims commissioners. The court shall have full equity powers in all actions within its jurisdiction and may entertain and determine all counterclaims, cross-claims, and third-party claims.

{¶16} "(2) If the claimant in a civil action as described in division (A)(1) of this section also files a claim for a declaratory judgment, injunctive relief, or other equitable relief against the state that arises out of the same circumstances that gave rise to the civil action described in division (A)(1) of this section, the court of claims has exclusive, original jurisdiction to hear and determine that claim in that civil action. This division does not affect, and shall not be construed as affecting, the original jurisdiction of another court of this state to hear and determine a civil action in which the sole relief that the claimant seeks against the state is a declaratory judgment, injunctive relief, or other equitable relief.";

{¶17} 3) Defendant complied with its statutory duties;

{¶18} 4) This court lacks jurisdiction over plaintiff's case.

{¶19} IT IS ORDERED THAT:

{¶20} 1) Defendant's motion to dismiss is GRANTED pursuant to Civ. R. 12(B)(1);

{¶21} 2) Plaintiff's motion in opposition and motion for summary judgment are DENIED;

{¶22} 3) Plaintiff's case is DISMISSED;

{¶23} 4) The court shall absorb the court costs of this case.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

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7/24  
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