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consumer debt.

**{¶d}** "(M) The reparations fund, through the attorney general, may institute and pursue legal proceedings against an offender, third party, or overpaid claimant. In actions against an offender or third party, the claimant and victim are not necessary parties to the action.

**{¶e}** "(N) The costs and attorney's fees of the attorney general in enforcing the reparations fund's reimbursement, repayment, or subrogation rights are fully recoverable from the liable offender, third party, or overpaid claimant.

**{¶f}** "(O) All moneys that are collected by the state pursuant to its rights of subrogation as provided in this section or pursuant to the attorney general's authority to recover some or all of an award of reparations that is granted pursuant to this section shall be deposited in the reparations fund."

[Cite as *Flanagan v. Ohio Victims of Crime Fund*, 2004-Ohio-1842.]

{¶2} Plaintiff has asserted defendant has wrongfully collected money from his inmate account. Consequently, plaintiff filed this complaint seeking to recover \$1,601.12, representing monies already collected as of the date of this filing. Plaintiff has also requested the court enjoin defendant from proceeding with any future collection activity. Plaintiff alleged funds were deducted from his inmate account pursuant to R.C. 2947.23 and 2949.14.<sup>2</sup>

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{¶g} <sup>2</sup> § 2947.23 Judgment for costs and jury fees.

{¶h} "(A)(1) In all criminal cases, including violations of ordinances, the judge or magistrate shall include in the sentence the costs of prosecution and render a judgment against the defendant for such costs.

{¶i} "(2) If a jury has been sworn at the trial of a case, the fees of the jurors shall be included in the costs, which shall be paid to the public treasury from which the jurors were paid."

{¶j} § 2949.14 Cost bill in case of felony.

{¶k} "Upon conviction of a nonindigent person for a felony, the clerk of the court of common pleas shall make and certify under his hand and seal of the court, a complete itemized bill of the costs made in such prosecution, including the sum paid by the board of county commissioners, certified by the county auditor, for the arrest and return of the person on the requisition of the governor, or on the request of the governor to the president of the United States, or on the return of the fugitive by a designated agent pursuant to a waiver of extradition except in cases of parole violation. Such bill of costs shall be presented by such clerk to the prosecuting attorney, who shall examine each item therein charged and

Plaintiff further alleged he is entitled to have the collected funds returned according to the provisions of R.C. 2969.05. However, in order to recover funds in accordance with the provisions of R.C. 2969.05, an account established pursuant to the

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certify to it if correct and legal. Upon certification by the prosecuting attorney, the clerk shall attempt to collect the costs from the person convicted."

[Cite as *Flanagan v. Ohio Victims of Crime Fund*, 2004-Ohio-1842.]

{¶3} statutory directive of R.C. 2969.02 must exist.<sup>3</sup> This

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{¶l} <sup>3</sup> R.C. 2969.02(A) and (B) provide:

{¶m} § 2969.02 Payment of proceeds of contract with offender or allied person into recovery of offender's profits fund.

{¶n} "(A) Except as provided in section 2969.05 of the Revised Code, a person that enters into a contract with an offender, an agent, assignee, conspirator, or accomplice of an offender, a member of the family of an offender, or an agent or assignee of a member of the family of an offender shall pay the money, and the monetary value of the property other than money, due under the contract to the clerk of the court of claims for deposit in the recovery of offender's profits fund, if the terms of the contract provide for any of the following:

{¶o} "(1) The reenactment or description by the offender or by a member of the family of the offender in any of the following of an offense that the offender committed:

{¶p} "(a) A movie, book, magazine, newspaper, article, or other form of literary expression;

{¶q} "(b) A program on television, radio, or another broadcasting medium;

{¶r} "(c) A play, speech, or another form of live entertainment, instruction, or presentation.

{¶s} "(2) The expression of description of the thoughts, feelings, opinions, or emotions of the offender or of a member of the family of the offender regarding or experienced during the offense in a material, performance, or program described in division (A)(1)(a), (b), or (c) of this section;

{¶t} "(3) The life story or a part of the life story of the offender or of a member of the family of the offender or an interview or a part of an interview with the offender, an agent, assignee, conspirator, or accomplice of the offender, a member of the family of the offender, or an agent or assignee of a member of the family of an offender that is to be used in a material, performance or program described in division (A)(1)(a), (b), or (c) of this section, if the publication value of the story or interview results in part from the notoriety brought by the commission of an offense.

{¶u} "(B) An offender, an agent, assignee, conspirator, or accomplice of an offender, a member of the family of an offender, or an agent or assignee of a member of the family of an offender who enters into a contract described in division (A) of this section or a person who receives money or property other than money pursuant to a contract of that nature shall pay the money or the monetary value of the property received pursuant to the contract to the clerk of the court of claims for deposit in the recovery of offender's profits fund. If a person receives money or property pursuant to a contract described in division (A) of this section and fails to pay it or its monetary value to the clerk of the court of claims for deposit in the fund as required by this division, the state has a lien upon the money or property and upon property that is purchased or otherwise obtained with the money or property. The attorney general shall enforce the lien in the same manner as a judgment lien may be enforced by a private individual."

{¶v} R.C. 2969.05 states:

{¶w} § Payment of unexpended funds to person from whom obtained.

{¶x} "If a separate account has been maintained in the recovery of

court is unaware of the existence of any account pertaining to plaintiff directed by the statutory provision of R.C. 2969.02.

{¶4} Defendant has denied any liability in this matter. Defendant has contended all collections from plaintiff were

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offender's profits fund and if there is no further requirement to pay money or the monetary value of property into the fund pursuant to section 2969.02 of the Revised Code, unless otherwise ordered by a court of record in which a judgment has been rendered against the offender or the representatives of the offender, and if money in the separate account was obtained from a member of the family of the offender or an agent or assignee of a member of the family of the offender, against the family member, agent, or assignee, the clerk of the court of claims shall pay the money remaining in the separate account to the persons from whom the money was obtained, if all of the following apply:

{¶y} "(A) The applicable period of time that governs the making of payments from the separate account, as set forth in division (C)(1) of section 2969.04 of the Revised Code, has elapsed.

{¶z} "(B) None of the civil actions against the offender or the representatives of the offender and, if money in the separate account was obtained from a member of the family of the offender or an agent or assignee of a member of the family of the offender, against the family member, agent, or assignee of which the clerk of the court of claims has been notified pursuant to division (B)(1) of section 2969.04 of the Revised Code is pending.

{¶aa} "(C) All judgments for which payment was requested pursuant to division (B)(3) of section 2969.04 of the Revised Code have been paid.

authorized. Furthermore, defendant maintained none of the statutory sections cited by plaintiff have any application to the collection proceedings involved in the instant action.

{¶5} The facts of the present action show plaintiff's claim is solely based on the alleged wrongful collection of funds pursuant to R.C. 2743.72. Since this particular action is for the recovery of an alleged wrongful collection, the claim is grounded solely in equity. *Ohio Hosp. Assn. v. Ohio Dept. of Human Servs.* (1991), 62 Ohio St. 3d 97. "The reimbursement of monies withheld pursuant to an invalid administrative rule is equitable relief, not money damages." *id.* at 105. "Thus, for restitution to lie in equity, the action generally must seek not to impose liability on the defendant, but to restore to the plaintiff particular funds or

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{¶6} property in the defendant's possession." *Great-West Life & Annuity Co. v. Knudson* (2002) 534 U.S. 204, at 214, 122 S. Ct. 708, 151 L. Ed 2d 635.

{¶7} "A suit that seeks the return of specific funds wrongfully collected or held by the state is brought in equity." *Santos et al. v. Bur. of Workers' Comp.*, 101 Ohio St. 3d 74, 2004-Ohio-28 at paragraph one of the syllabus. R.C. 2743.03(A)(1) and (2) states:

{¶8} "(A)(1) There is hereby created a court of claims. 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.

{¶9} "(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."

{¶10} Additionally, R.C. 2743.10(A) states in pertinent part: "Civil actions against the state for two thousand five hundred dollars or less shall be determined administratively by the clerk

of the court of claims . . ." R.C. 2743.10 does not confer equity jurisdiction at the Administrative Determination level of this court. Administrative Determination actions are solely for money damages. Equity jurisdiction in matters involving the state are reserved for judicial review. Although plaintiff in the instant claim is seeking to recover funds he asserted were wrongfully withheld, the funds sought for recovery represent a claim for equitable relief and not money damages. Consequently, this court at the Administrative Determination level has no jurisdiction over claims grounded in equity. Plaintiff's claim is dismissed.

[Cite as *Flanagan v. Ohio Victims of Crime Fund*, 2004-Ohio-1842.]  
IN THE COURT OF CLAIMS OF OHIO

DANNY FLANAGAN :  
Plaintiff :  
v. : CASE NO. 2003-08193-AD  
OHIO VICTIMS OF CRIME FUND : ENTRY OF ADMINISTRATIVE  
Defendant : DETERMINATION

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Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, 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.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Danny Flanagan, #A180-598  
P.O. Box 69  
London, Ohio 43140

Plaintiff, Pro se

Melanie Cornelius  
Assistant Attorney General  
Crime Victims Subrogation Unit  
Collections Enforcement Section  
101 East Town Street, 3rd Floor  
Columbus, Ohio 43215

For Defendant

RDK/laa  
2/24  
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