

[Cite as *Price v. Ohio Dept. of Rehab. & Corr.*, 2006-Ohio-7158.]

IN THE COURT OF CLAIMS OF OHIO

DARRELL W. PRICE :
Plaintiff :
v. : CASE NO. 2006-01017-AD
DEPARTMENT OF REHABILITATION : MEMORANDUM DECISION
AND CORRECTION :
Defendant :
: : : : : : : : : : : : : : : :

{1} Plaintiff, Darrell W. Price, an inmate incarcerated at defendant's Madison Correctional Institution, placed a \$16.50 food order for pizzas with the Combined Charitable Campaign. Plaintiff noted he placed this food order on or about October 4, 2004. Food deliveries were scheduled for October 28 and October 29, 2004. Printed fliers explaining policies for receipt of ordered goods were posted in the institution dining hall and housing unit. These fliers contained the notice: "Because all proceeds go to charity, there will be No Refunds Given." On October 25, 2004, plaintiff was removed from defendant's institution to attend court hearings. During the time plaintiff was involved in attending court proceedings his food delivery arrived at the Madison Correctional Institution. When plaintiff subsequently returned to defendant's institution he was denied his food order and the money he paid for the food order was not refunded.

{2} Plaintiff filed this complaint contending he is entitled to receive a \$16.50 refund for the food products he ordered but did not receive. Plaintiff was not required to pay a filing fee.

{3} Defendant denied liability. Defendant asserted plaintiff was placed on notice of the no refund policy and essentially has no recourse.

{4} Plaintiff filed a response. The information contained in the response neither adds to nor detracts from plaintiff's claim regarding his entitlement to recovery.

{5} The state cannot be sued for the exercise of any executive or planning function involving the making of a policy decision characterized by the use of a high degree of discretion. *Reynolds v. State* (1984), 14 Ohio St. 3d 68. Plaintiff's claim is denied since he has waived any claim regarding a refund of funds paid or receipt of the products purchased. See *Bradsher v. Ohio Department of Rehabilitation and Correction*, 2003-04627-AD, 2003-Ohio-4490; *Thomas v. Warren Correctional Inst.* 2005-07224-AD, jud, 2005-Ohio-6586.

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ENTRY OF ADMINISTRATIVE DETERMINATION

Defendant :

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

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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Darrel W. Price, #309-598
P.O. Box 740
London, Ohio 43140

Plaintiff, Pro se

Gregory C. Trout, Chief Counsel
Department of Rehabilitation

For Defendant

Case No. 2006-01017-AD

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MEMORANDUM DECISION

and Correction
1050 Freeway Drive North
Columbus, Ohio 43229

RDK/laa

3/29

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