

Court of Claims of Ohio

The Ohio Judicial Center
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KEVIN BRADLEY

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2006-01581

Judge J. Craig Wright
Magistrate Matthew C. Rambo

JUDGMENT ENTRY

{¶1} On March 26, 2007, an oral hearing was held before a magistrate of the court on the parties' cross-motions for summary judgment. On April 23, 2007, the magistrate issued a decision recommending that defendant's motions for summary judgment be granted and that plaintiff's motions for summary judgment be denied.

{¶2} Civ.R. 53(D)(3)(b)(i) states: "A party may file written objections to a magistrate's decision within fourteen days of the filing of the decision, whether or not the court has adopted the decision during that fourteen-day period as permitted by Civ.R. 53(D)(4)(e)(i). ***"

{¶3} On May 7, 2007, plaintiff filed objections. Defendant did not file a response.

{¶4} Based upon the undisputed affidavit testimony submitted by defendant in support of its motions for summary judgment, the magistrate specifically found that there was no discernible error in the sentencing order of the Champaign County Court of Common Pleas that would draw into question the validity of such order. The magistrate also found that "defendant's decisions relating to plaintiff's eligibility for job training programs and the amount of money that he may be given upon release involve a high degree of official discretion." Based upon these findings, the magistrate concluded that defendant was entitled to judgment as a matter of law and the magistrate recommended both that defendant's motions be granted and that plaintiff's motions be denied.

{¶5} Plaintiff reiterates in his objections his previous contention that the Champaign County Court of Common Pleas lacked jurisdiction to issue the sentencing order and that defendant's enforcement of the sentencing order renders defendant strictly liable on plaintiff's claim for false imprisonment. However, the law is clear that "an action for false imprisonment cannot be maintained where the wrong complained of is imprisonment in accordance with the judgment or order of a court, unless it appear that such judgment or order is void." *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St.3d 107, 111, quoting *Diehl v. Friester*, (1882), 37 Ohio St. 473, 475. In this case, there is no perceptible error in the order that defendant relied upon to incarcerate plaintiff.

{¶6} Plaintiff also objects to the magistrate's decision on the ground that it denies him a remedy in violation of Article I §16 of the Ohio Constitution. To the extent that plaintiff challenges the constitutionality of Civ.R. 56, the court notes that "[t]he right of the Ohio Supreme Court to prescribe rules is specifically limited by the provision that 'rules, shall not abridge, enlarge, or modify any substantive right.'" See *McCormac & Solimine*,

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Ohio Civil Rules Practice, §1.02 at p. 3; Ohio Constitution, Article IV §5(B). Thus, the magistrate did not violate plaintiff's constitutional rights by recommending summary judgment in favor of defendant. Moreover, as a general rule, constitutional claims are not actionable in the Court of Claims. *Bleicher v. Univ. of Cincinnati* (1992), 78 Ohio App.3d 302, 306.

{¶7} Upon review of the record, the magistrate's decision and the objections, the court finds that the magistrate has properly determined the factual issues and appropriately applied the law. Therefore, the objections are OVERRULED and the court adopts the magistrate's decision and recommendation as its own, including findings of fact and conclusions of law contained therein. 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.

J. CRAIG WRIGHT
Judge

cc:

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