

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

TIMOTHY FEAGIN

Plaintiff

v.

MANSFIELD CORRECTIONAL
INSTITUTION

Defendant

Case No. 2006-02285

Judge Clark B. Weaver Sr.

JUDGMENT ENTRY

{¶1} On September 20, 2006, defendant filed a motion for judgment on the pleadings pursuant to Civ.R. 12(C). Plaintiff did not file a response. The motion was scheduled for oral hearing and after two continuances came before the court for hearing on January 4, 2007.

{¶2} Plaintiff was employed as a corrections officer by defendant Mansfield Correctional Institution (ManCI). In his complaint, plaintiff alleges that defendant, and the employees' union that represented him, engaged in a "conspiracy to interfere with [his] employment relationship due to [his] race"; that he was wrongfully discharged as a result of his attempt to use leave time as provided for under the Family Medical Leave Act (FMLA); that his requests for leave under the FMLA were denied; and that he was discharged in violation of public policy and R.C. 4112.

{¶3} Defendant contends that it is entitled to judgment as a matter of law because plaintiff's complaint is barred by the applicable statute of limitations. R.C. 2743.16(A) states in pertinent part:

{¶4} "[C]ivil actions against the state permitted by sections 2743.01 to 2743.20 of the Revised Code shall be commenced no later than two years after the date of accrual of the cause of action or within any shorter period that is applicable to similar suits between private parties."

{¶5} Plaintiff was terminated from his employment on June 25, 2003. His complaint was filed in this court on March 6, 2006. Plaintiff's counsel alleged during the above hearing that plaintiff had filed a case against ManCI in the Richland County Court of Common Pleas, that the case was dismissed for lack of subject matter jurisdiction, and that his complaint herein was filed within one year of that dismissal.

{¶6} A Civ.R. 12(C) motion presents only questions of law; it may be granted only when no material issues of fact exist and the party filing the motion is entitled to judgment as a matter of law. *Peterson v. Teodosio* (1973), 34 Ohio St.2d 161. In determining the motion, the court must construe the pleadings liberally and in a light most favorable to the party against whom the motion is made, along with all reasonable inferences that may be drawn therefrom. *Burnside v. Leimbach* (1991), 71 Ohio App.3d 399, 402. The court may consider only the statements contained in the pleadings, and may not consider any evidentiary materials. *Id.*

Case No. 2006-02285	- 3 -	JUDGMENT ENTRY
---------------------	-------	----------------

{¶17} Upon consideration, the court finds that, even construing the pleadings in a light most favorable to plaintiff, no material issues of fact exist. Plaintiff's complaint was clearly filed beyond the two-year statute of limitations. Plaintiff did not allege in the pleadings that he had filed an action in the Richland County Court of Common Pleas nor did he assert any facts from which an inference could be drawn that the R.C. 2305.19 "savings" statute applies to this action.

{¶18} The complaint was filed on March 6, 2006, and defendant's motion was filed on September 20, 2006. At no time prior to the January 4, 2007, oral hearing did plaintiff relate any information concerning a prior lawsuit, when it might have been filed, or when it might have been dismissed. Therefore, the face of pleadings demonstrate that plaintiff's action was not timely filed in accordance with R.C. 2743.16(A), and defendant is entitled to judgment as a matter of law.

{¶19} Defendant's motion for judgment on the pleadings 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.

CLARK B. WEAVER SR.
Judge

cc:

Thomas J. Stoll P.O. Box 631 Norwalk, Ohio 44857 Velda K. Hofacker Carr
--

Case No. 2006-02285	- 4 -	JUDGMENT ENTRY
---------------------	-------	----------------

Assistant Attorney General
150 East Gay Street, 23rd Floor
Columbus, Ohio 43215-3130

LH/cmd

Filed January 29, 2007

To S.C. reporter March 6, 2007