

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

COREY E. THAYER

Plaintiff

v.

OHIO STATE PENITENTIARY

Defendant

Case No. 2007-06730-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Corey E. Thayer, an inmate incarcerated at defendant, Ohio State Penitentiary (“OSP”), states 50% of his monthly state pay has been withheld by OSP staff for a thirty-seven month period dating back to June 2004. Plaintiff relates \$4.50 of his monthly state pay was withheld each month to pay for damages he caused while incarcerated at Trumbull Correctional Institution. Plaintiff asserts that over a thirty-seven month period defendant deducted a total of \$166.50 from his stay pay, but that he only received credit for paying \$122.62.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover \$43.88, the amount of state pay he claims was withheld from him that he characterizes as “unaccounted for.” Plaintiff also seeks recovery of \$3.60 for copying costs and 25.00 for filing fee reimbursement. Copying costs are not compensable in an action of this type and therefore, plaintiff’s claim for these costs is denied. The filing fee was submitted.

{¶ 3} 3) Defendant admits an error was made in tabulating the balance of a restitution debt plaintiff owed. However, defendant maintains the error was corrected. Defendant contends plaintiff has failed to produce any evidence to establish any property or funds he was entitled to receive was taken from him. Defendant denies

plaintiff proved he suffered any loss under the facts presented. Defendant acknowledges state pay is withdrawn from plaintiff's inmate account every month.

{¶ 4} 4) Plaintiff filed a response insisting defendant withdrew a total of \$43.88 from his inmate account that was not deducted from the balance amount of the restitution debt he owes.

CONCLUSIONS OF LAW

{¶ 5} 1) Plaintiff's claim is based on defendant's alleged failure to make a proper accounting of state pay deductions to be applied to the balance of a restitution debt. Defendant has discretion to make decisions regarding inmate pay. State pay loss is not a compensable element of damages in regard to prisoners. See *Cotten v. Dept. of Rehab. and Corr.* (1993), 92-02013-AD, jud; *Platz v. Noble Correctional Institution* (2001), 2001-02210-AD; *Myers v. Southern Ohio Correctional Facility* (2006), 2005-10063-AD, jud; *Johns v. Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2006-07724-AD, 2007-Ohio-3748.

{¶ 6} 2) Alternatively, considering defendant's acts could be construed as a wrongful collection of plaintiff's funds, plaintiff could still not prevail. Plaintiff is seeking to recover funds he asserted were wrongfully withheld, the funds sought for recovery represents 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 based on the wrongful collection of funds from a inmate account. See *Flanagan v. Ohio Victims of Crime Fund*, Ct. of Cl. No. 2003-08193-AD, 2004-Ohio-1842; also *Blake v. Ohio Attorney General's Office*, Ct. of Cl. No. 2004-06089-AD, 2004-Ohio-5420; and *Johnson v. Trumbull Corr. Inst.*, Ct. of Cl. No. 2004-08375-AD, jud, 2005-Ohio-1241.



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ENTRY OF ADMINISTRATIVE
DETERMINATION

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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
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