

[Cite as *Johnson v. Ohio Dept. of Rehab. & Corr.*, 2008-Ohio-4212.]

Court of Claims of Ohio

The Ohio Judicial Center
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Columbus, OH 43215
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LAMOND JOHNSON

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, et al.

Defendants

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Case No. 2007-01754

Judge Joseph T. Clark
Magistrate Steven A. Larson

ENTRY GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

{¶ 1} On February 28, 2008, defendants filed a motion for summary judgment pursuant to Civ.R. 56(B). Plaintiff did not file a response. The motion is now before the court on a non-oral hearing pursuant to L.C.C.R. 4(D).

{¶ 2} Civ.R. 56(C) states, in part, as follows:

{¶ 3} "Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor." See also *Gilbert v. Summit County*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 4} At all times relevant to this action, plaintiff was an inmate in the custody and control of defendants at the Southern Ohio Correctional Facility (SOCF) pursuant to R.C. 5120.16. Plaintiff alleges that on December 28, 2006, prescription medication was distributed to him by a corrections officer (CO), who is not licensed to do so. Plaintiff claims that the medication that he was given was not prescribed for him, but that he

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took it for fear of being disciplined, and that it made him ill. Defendants assert that SOCF has promulgated a policy whereby COs are permitted to distribute medications to inmates who pose a security risk. As such, defendants argue that they are entitled to discretionary immunity for claims concerning that policy. Defendants further argue that plaintiff never received improper medication.

{¶ 5} The Supreme Court of Ohio has held that “[t]he language in R.C. 2743.02 that ‘the state’ shall ‘have its liability determined * * * in accordance with the same rules of law applicable to suits between private parties * * *’ means that the state cannot be sued for its legislative or judicial functions or the exercise of an executive or planning function involving the making of a basic policy decision which is characterized by the exercise of a high degree of official judgment or discretion.” *Reynolds v. State* (1984), 14 Ohio St.3d 68, 70; *Von Hoene v. State* (1985), 20 Ohio App.3d 363, 364. Prison administrators are provided “wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.” *Bell v. Wolfish* (1979), 441 U.S. 520, 547.

{¶ 6} In support of the motion, defendants submitted the affidavit of Rhonda Stalnaker, the healthcare administrator at SOCF, wherein she states:

{¶ 7} “2. As Healthcare Administrator I supervise and have personal knowledge of all activities and duties relating to the medical care of inmates that are incarcerated at SOCF;

{¶ 8} “* * *

{¶ 9} “5. I have reviewed the medical file of [plaintiff];

{¶ 10} “6. In reviewing [plaintiff’s] medical file, I could not find anything documenting that [plaintiff] received the incorrect medication on December 28, 2006, or on any other date while being incarcerated at SOCF;

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{¶ 11} “7. When distributing medication to an inmate in cellblock J-1 at SOCF, for security reasons, a nurse hands the medication to a correctional officer who then hands it to the inmate while the nurse watches;

{¶ 12} “8. In these situations, the medication(s) for the inmate is inside an envelope with the inmate’s name, number, and list of medications. The nurse hands only one such envelope at a time to the correctional officer.”

{¶ 13} Based upon this undisputed affidavit testimony, the court finds that defendants’ implementation of a policy regarding the distribution of medication to inmates who pose a security risk is characterized by a high degree of official judgment and discretion. Thus, defendants are entitled to discretionary immunity on claims concerning such policy. The court further finds that plaintiff’s allegation that he received the wrong medication is without merit inasmuch as plaintiff presented no evidence in support of such an allegation.

{¶ 14} Accordingly, defendants’ motion for summary judgment is hereby GRANTED and judgment is rendered in favor of defendants. 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.

JOSEPH T. CLARK
Judge

cc:

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MR/cmd
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