

[Cite as *Watley v. Ohio Dept. of Rehab. & Corr.*, 2008-Ohio-5730.]

# Court of Claims of Ohio

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RAYSHAN WATLEY

Plaintiff

v.

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

[Cite as *Watley v. Ohio Dept. of Rehab. & Corr.*, 2008-Ohio-5730.]

Case No. 2006-06337

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MAGISTRATE DECISION

Case No. 2006-06337

Judge Clark B. Weaver Sr.  
Magistrate Matthew C. Rambo

MAGISTRATE DECISION

{¶ 1} Plaintiff brought this action alleging negligence. The issues of liability and damages were bifurcated and the case proceeded to trial on the issue of liability.

{¶ 2} At the outset of the proceedings, the court heard argument regarding defendant's April 8, 2008 motion to quash several subpoenas. As a result, the court GRANTED defendant's motion.

{¶ 3} At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant at the Southern Ohio Correctional Facility (SOCF) pursuant to R.C. 5120.16. Plaintiff alleges that defendant refused to issue him his prescribed medication on September 21, 22, and 27, 2006, that defendant issued him another inmate's medication on September 28, 2006, and that over an unspecified period of time, corrections officers (COs) administered his medication without a license to do so.

{¶ 4} Defendant asserts that plaintiff refused to take his prescribed medication on September 21, 22, and 27, 2006, that plaintiff was issued only his prescribed medication on September 28, 2006, and that the policy allowing COs to issue medication to certain inmates is a matter of institutional security for which defendant is entitled to discretionary immunity.

{¶ 5} In order for plaintiff to prevail upon his claims of negligence, he must prove by a preponderance of the evidence that defendant owed him a duty, that defendant's acts or omissions resulted in a breach of that duty, and that the breach proximately caused his injuries. *Armstrong v. Best Buy Co., Inc.*, 99 Ohio St.3d 79, 81, 2003-Ohio-2573, citing *Menifee v. Ohio Welding Products, Inc.* (1984), 15 Ohio St.3d 75, 77.

{¶ 6} SOCF Health Care Administrator Rhonda Stalnaker testified that for security purposes, defendant's medication administration policy permits a doctor to order an inmate's medication that may be administered by a CO under the supervision of a nurse, as long as the doctor documents rationale for the order. (Defendant's Exhibit B.) Stalnaker identified an October 20, 2006 entry in plaintiff's medical chart as a doctor's order that plaintiff's medication be administered by a CO due to his "assaultive nature," and she testified that the order complies with defendant's policy. (Defendant's Exhibit C.) Although plaintiff testified that he did not exhibit violent behavior, he admitted that he is imprisoned for assault. Furthermore, according to Deputy Warden of Operations Donald Morgan, plaintiff resided in a disciplinary cell

block for violent inmates during the time period relevant to this case and he had been criminally prosecuted for assaulting a CO.

{¶ 7} 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, paragraph one of the syllabus. 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.

{¶ 8} The court finds that defendant’s decision to implement a policy regarding the issuance of medication to inmates who pose a security risk is characterized by a high degree of official judgment and discretion. Thus, defendant is entitled to discretionary immunity on claims concerning such policy. See *Johnson v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2007-01754, 2008-Ohio-4212.

{¶ 9} Additionally, to the extent that plaintiff alleges that the policy violates his right to medical privacy, the court construes this as a constitutional claim arising under 42 U.S.C. 1983. See *Watley v. Dept. of Rehab. & Corr.* (Apr. 30, 2003), Ct of Cl. No. 2003-02012; *Petty v. Ohio Dept. of Rehab. & Corr.* (Sept. 2, 2008), Ct. of Cl. No. 2007-07001. It is well-settled that claims alleging the infringement of an inmate’s constitutional rights are not actionable in the Court of Claims. See *Thompson v. Southern State Community College* (June 15, 1989), Franklin App. No. 89AP-114; *Burkey v. Southern Ohio Corr. Facility* (1988), 38 Ohio App.3d 170. Accordingly, the court lacks subject matter jurisdiction over plaintiff’s claim that defendant violated his right to medical privacy.

{¶ 10} To the extent that plaintiff alleges a violation of his right to privacy under R.C. Chapter 1347, defendant is generally exempt from such provisions. See R.C. 1347.04(A)(1)(d); *Wilson v. Patton* (1988), 49 Ohio App.3d 150, paragraph one of the syllabus.

{¶ 11} In support of his claim that he was issued another inmate's medication, plaintiff testified that on September 28, 2006, he was given his usual pills along with several others that he did not recognize. Plaintiff stated that when he alerted SOCF staff to this alleged error, they accused him of exchanging pills with an inmate in an adjacent cell and ordered him to surrender the pills in question. Plaintiff testified that he refused to hand over the medication until such time as he could meet with Corrections Captain Anthony Gannon. Gannon testified that he indeed met with plaintiff and confiscated medication not prescribed for him.

{¶ 12} In addition to this incident, plaintiff testified that he received medication intended for inmates with the same surname as his on other, unspecified occasions. To this end, plaintiff introduced two medication envelopes allegedly issued to him by defendant, one labeled with the name "Watley" and his inmate number, and another labeled "Watley," but with a different inmate number. (Plaintiff's Exhibits 4 and 5.) Stalnaker testified that inmate medications are packaged in envelopes such as these, but she also stated that as a means of accurately administering medication, an inmate must display identification with his name, inmate number, and photograph on it in order to receive his medication. According to Stalnaker, an inmate who believes he received the wrong medication must contact the nursing staff, and if it is determined that the medication was not properly issued, this must be recorded in an incident report. Stalnaker testified that to her knowledge, there is no documented instance of another inmate's medication being issued to plaintiff.

{¶ 13} Addressing plaintiff's claim that defendant failed to administer his prescribed medication on September 21, 22, and 27, 2006, Stalnaker testified that each

time an inmate is offered medication, the employee providing the medication must make a note in a written log, which he or she then initials. Stalnaker stated that the relevant log for September 21, 22, and 27, 2006, indicates that on each of those days plaintiff refused to take medication offered to him by nurse Goode. (Defendant's Exhibit D.) Stalnaker testified that she is aware of no documentation of a nurse refusing to administer plaintiff's prescribed medication.

{¶ 14} Upon review of the evidence adduced at trial, the court concludes that plaintiff failed to prove by a preponderance of the evidence both that defendant refused to administer his prescribed medication and that defendant issued him another inmate's medication. Moreover, even if the court were to believe that plaintiff was issued medications prescribed to another inmate, plaintiff was not harmed by the error inasmuch as he did not ingest such medications.

{¶ 15} For the foregoing reasons, the court finds that plaintiff failed to prove any of the claims alleged in his complaint and judgment is therefore recommended in favor of defendant.

*A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

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MATTHEW C. RAMBO  
Magistrate

Case No. 2006-06337

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MAGISTRATE DECISION

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