

Court of Claims of Ohio

The Ohio Judicial Center
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KEVIN HUGHLEY

Plaintiff

v.

SOUTHEASTERN CORRECTIONAL INSTITUTION, et al.

Defendants

Case No. 2008-09392

Judge J. Craig Wright

Magistrate Steven A. Larson

ENTRY GRANTING DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS

{¶ 1} On March 2, 2009, defendants filed a motion for judgment on the pleadings pursuant to Civ.R. 12(C). On March 11, 2009, plaintiff filed a motion to strike defendants' motion. On April 10, 2009, plaintiff filed a motion for default judgment against defendant Department of Rehabilitation and Correction (DRC).

{¶ 2} As an initial matter, plaintiff argues that he is entitled to default judgment because DRC did not file an answer separate from the answer filed by defendant Southeastern Correctional Institution (SCI). Pursuant to R.C. 5120.05 "[t]he department of rehabilitation and correction may maintain, operate, manage, and govern all state institutions for the custody, control, training, and rehabilitation of persons convicted of crime and sentenced to correctional institutions." Accordingly, SCI's answer is hereby incorporated as DRC's answer and plaintiff's motion for default judgment is DENIED.

{¶ 3} Civ.R. 12(C) provides:

{¶ 4} "After the pleadings are closed but within such times as not to delay the trial, any party may move for judgment on the pleadings."

{¶ 5} A motion for judgment on the pleadings presents only questions of law and it may be granted only where no material factual issues exist and when the moving party is entitled to judgment as a matter of law. *Peterson v. Teodosio* (1973), 34 Ohio St.2d 161, 165-166. "Pursuant to Civ.R. 12(C), the pleadings must be construed liberally and in a light most favorable to the party against whom the motion is made along with the reasonable inferences drawn therefrom." *Burnside v. Leimbach* (1991), 71 Ohio App.3d 399, 402.

{¶ 6} Plaintiff is an inmate in the custody and control of defendants pursuant to R.C. 5120.16. The facts alleged in plaintiff's complaint are as follows: When plaintiff entered defendants' custody, he applied for and was granted entrance into "IPP," a special program whereby plaintiff could reduce his sentence; as a result plaintiff anticipated being released on June 9, 2008; on June 5, 2008, plaintiff received a conduct report for stealing a pack of cigarettes and being "out of place"; on June 10, 2008, the Rules Infraction Board (RIB) at SCI found plaintiff guilty of the charges, removed him from IPP, and he was placed in the general prison population as punishment; on June 12, 2008, the director of DRC reversed and remanded the RIB decision; on June 18, 2008, the RIB conducted another hearing on plaintiff's case; and plaintiff was found guilty and removed from IPP. Based upon these allegations, plaintiff asserts claims of malicious prosecution, civil conspiracy, false imprisonment, and intentional infliction of emotional distress.

{¶ 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, 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.

{¶ 8} Upon review, the court finds that the determinations made by defendants regarding the disposition of plaintiff’s RIB case are characterized by a high degree of official judgment or discretion and that defendants are entitled to discretionary immunity from suits arising out of such decisions. Inasmuch as plaintiff’s malicious prosecution, civil conspiracy, false imprisonment, and intentional infliction of emotional distress claims are based upon the proceedings and decisions of the RIB, defendants are entitled to judgment as a matter of law on those claims.

{¶ 9} Moreover, to the extent that plaintiff asserts that the proceedings before the RIB violated his right to due process, it is well-settled that such claims 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.

{¶ 10} Based upon the foregoing, defendants’ motion for judgment on the pleadings 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.

J. CRAIG WRIGHT
Judge

cc:

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ENTRY

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MR/cmd
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