

Court of Claims of Ohio

The Ohio Judicial Center
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Columbus, OH 43215
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FREDDY E. DROUET

Plaintiff

v.

BUREAU OF MOTOR VEHICLES

Defendant

Case No. 2009-09825-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶ 1} Plaintiff, Freddy E. Drouet, filed this action against defendant, Bureau of Motor Vehicles (BMV), asserting that BMV representatives wrongfully collected \$113.00 for license plate fees and failed to issue valid license plates. Plaintiff explained that “I visited the BMV office (on October 19, 2009) and asked April, an employee, if my client, Franco Roofing, could purchase license plates using his EIN” and April replied, “yes.” Plaintiff pointed out he returned to the BMV office on October 21, 2009 and “paid the teller \$113.” for license plates. However, plaintiff related “the staff confiscated the license plates for investigation” and the \$113.00 fee was not returned. Plaintiff filed this complaint seeking to recover \$113.00, an amount representing the total cost of plates and fees collected by defendant, plus \$25.00 for filing fee costs. The \$25.00 filing fee was paid. Plaintiff submitted a receipt showing a total of \$113.00 was paid on October 21, 2009 to a local BMV deputy registrar in Dayton, Ohio.

{¶ 2} Defendant stated that “BMV admits that it received \$109.50 in registration fees from Plaintiff and that none of those fees were refunded after the registration was

canceled.” Additionally, defendant acknowledged that an additional \$3.50 in deputy registrar unrefunded fees was collected by the Deputy Registrar License Agency in Dayton, Ohio. Defendant advised that the particular license plate registration in the present claim was canceled pursuant to R.C. 4503.10(E), after a determination was made by the BMV Investigation section that false documentation had been provided to obtain the registration. Defendant related that the BMV Investigation section found the documents provided by plaintiff to obtain the registration in October 2009 “were not genuine and BMV canceled the registration Plaintiff had applied for on behalf of his ‘client.’” R.C. 4503.10(E) provides: “Upon the certification of the registrar, the county sheriff or local police officials shall recover license plates erroneously or fraudulently issued.”

{¶ 3} Defendant referenced R.C. 4503.10(A)(7) in addressing the issue regarding the submission of fraudulent documents when attempting to obtain a registration. Defendant stated that “R.C. 4503.10(A)(7) requires every owner applying for a vehicle registration to furnish ‘The owner’s social security number, driver’s license number, or state identification number, or, where a motor vehicle to be registered is used for hire or principally in connection with any established business, the owner’s federal taxpayer identification number.’” Defendant noted “[i]ndividuals who do not have a valid social security number, Ohio driver’s license number, or Ohio state identification number or who do not operate a legitimate, established business, are denied vehicle registrations under this provision.” Defendant explained that the documents provided by plaintiff’s client to obtain registration on his behalf were determined to be false and consequently, the registration was canceled. Additionally, all registration fees and deputy registrar fees paid by plaintiff were withheld by BMV.

{¶ 4} Plaintiff filed a response insisting that the documents he submitted to obtain registrations in October 2009 were genuine and not fraudulent. Plaintiff contended that he should be reimbursed “the entire amount he paid, including his costs of \$25.” Alternatively, plaintiff indicated that he would be willing to “accept a refund of the \$109.50 in registration fees, excluding the deputy registrar fees of \$3.50.”

{¶ 5} The facts of this action show that plaintiff’s claim is solely based on the alleged wrongful collection of funds he paid to obtain vehicle registrations. Since this particular action is for the recovery of an alleged wrongful collection, the claim is

grounded solely in equity. *Ohio Hosp. Assn. v. Ohio Dept. of Human Servs.* (1991), 62 Ohio St. 3d 97, 579 N.E. 2d 695. “The reimbursement of monies withheld pursuant to an invalid administrative rule is equitable relief, not money damages . . .” *Ohio Hosp. Assn.* at 105. “Thus, for restitution to lie in equity, the action generally must seek not to impose personal liability on the defendant, but to restore to the plaintiff particular funds or property in the defendant’s possession.” *Great-West Life & Annuity Ins. Co. v. Knudson* (2002), 534 U.S. 204, 214, 122 S. Ct. 708, 151 L. Ed. 2d 635.

{¶ 6} “[A] suit that seeks return of specific funds wrongfully collected or held by the state is brought in equity.” *Santos v. Ohio Bureau of Workers’ Compensation*, 101 Ohio St. 3d 74, 2004-Ohio-28 at paragraph one of the syllabus. R.C. 2743.03(A)(1) and (2) states:

{¶ 7} “(A)(1) There is hereby created a court of claims. The court of claims is a court of record and has exclusive, original jurisdiction of all civil actions against the state permitted by the waiver of immunity contained in section 2743.02 of the Revised Code, exclusive jurisdiction of the causes of action of all parties in civil actions that are removed to the court of claims, and jurisdiction to hear appeals from the decisions of the court of claims commissioners. The court shall have full equity powers in all actions within its jurisdiction and may entertain and determine all counterclaims, cross-claims, and third-party claims.

{¶ 8} “(2) If the claimant in a civil action as described in division (A)(1) of this section also files a claim for a declaratory judgment, injunctive relief, or other equitable relief against the state that arises out of the same circumstances that gave rise to the civil action described in division (A)(1) of this section, the court of claims has exclusive, original jurisdiction to hear and determine that claim in that civil action. This division does not affect, and shall not be construed as affecting, the original jurisdiction of another court of this state to hear and determine a civil action in which the sole relief that the claimant seeks against the state is a declaratory judgment, injunctive relief, or other equitable relief.”

{¶ 9} Additionally, R.C. 2743.10(A) states in pertinent part:

{¶ 10} “Civil actions against the state for two thousand five hundred dollars or less shall be determined administratively by the clerk of the court of claims . . .” R.C. 2743.10 does not confer equity jurisdiction at the Administrative Determination level of

this court. Administrative Determination actions are solely for money damages. Equity jurisdiction in matters involving the state are reserved for judicial review. Although plaintiff, in the instant claim, is seeking to recover funds he asserted were wrongfully withheld, the funds sought for recovery represent 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 plaintiff. 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. aff. (5-05-05), 2005-Ohio-1241.

{¶ 11} In essence the jurisdiction of the entire Court of Claims is based upon the type of relief sought, either money damages or equity. In *Parsons v. Ohio Bur. of Workers' Compensation*, Franklin App. No. 03AP-772, 2004-Ohio-4552, the 10th District Court of Appeals further addressed the issue of jurisdiction on equitable relief claims stating: “. . . the Court of Claims' jurisdiction is limited, in pertinent part, only to civil actions against the state permitted by the waiver of immunity contained within R.C. 2743.02. Thus, if the state consented to suit upon a claim prior to the enactment of the waiver contained in R.C. 2743.02, then the Court of Claims' jurisdiction does not extend to that claim. *Knecht v. Ohio Dept. of Rehab. & Corr.* (1992), 78 Ohio App. 3d 360, 365; *Upjohn Co. v. Ohio Dept. of Human Services* (1991), 77 Ohio App. 3d 827, 834. See, also, R.C. 2743.02(A)(1) ('To the extent that the state has previously consented to be sued, this chapter has no applicability.'). The state consented to be sued for equitable claims prior to the enactment of the Court of Claims Act. *Racing Guild of Ohio, Local 304 v. State Racing Comm.* (1986), 28 Ohio St. 3d 317, 320. Accordingly, we conclude that the Court of Claims cannot exercise jurisdiction over Parsons' equitable action.” at ¶12. Concomitantly, the court cannot exercise jurisdiction over plaintiff's equitable action.

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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, plaintiff's claim is DISMISSED. Court costs are assessed against plaintiff.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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