

[Cite as *Abela v. Ohio Dept. of Job & Family Servs.*, 2016-Ohio-984.]

PATRICK ABELA

Plaintiff

v.

OHIO DEPARTMENT OF JOB AND  
FAMILY SERVICES

Defendant

Case No. 2015-00446

Judge Patrick M. McGrath  
Magistrate Robert Van Schoyck

ENTRY GRANTING DEFENDANT'S  
MOTION FOR JUDGMENT ON THE  
PLEADINGS

{¶1} On December 14, 2015, defendant filed a motion for judgment on the pleadings pursuant to Civ.R. 12(C). Plaintiff did not file a response.

{¶2} “Civ.R. 12(C) may be employed by a defendant as a vehicle for raising the several defenses contained in Civ.R. 12(B) after the close of the pleadings. \* \* \* 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. \* \* \* A Civ.R. 12(C) motion presents only questions of law, and it may be granted only when no material factual issues exist, and the movant is entitled to a judgment as a matter of law.” *Burnside v. Leimbach*, 71 Ohio App.3d 399, 402-403 (10th Dist.1991).

{¶3} Defendant’s motion raises the defenses contained in Civ.R. 12(B)(1) and (6). “In order for a court to dismiss a complaint for failure to state a claim upon which relief can be granted (Civ.R. 12(B)(6)), it must appear beyond doubt from the complaint that the plaintiff can prove no set of facts entitling him to recovery.” *O’Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242 (1975), syllabus. “The standard of review for a dismissal pursuant to Civ.R. 12(B)(1) is whether any cause of action cognizable by the forum has been raised in the complaint.” *State ex rel. Bush v. Spurlock*, 42 Ohio St.3d 77, 80 (1989).

{¶4} Plaintiff initiated this action by filing his original complaint in which he named as defendant the Portage County Department of Job and Family Services. R.C. 2743.02(E) provides that the only defendant in an original action in the Court of Claims is the state, and R.C. 2743.13(A) provides that the complaint against the state must name as defendant a “state department, board, office, commission, agency, institution, or other instrumentality whose actions are alleged as the basis of complaint.” Consequently, on May 5, 2015, an order was issued dismissing the Portage County Department of Job and Family Services as a party and plaintiff was ordered to file an amended complaint.

{¶5} On May 14, 2015, plaintiff filed an amended complaint, nearly identical to the original, naming the Ohio Department of Job and Family Services as defendant. The amended complaint provides that plaintiff applied for and was approved to receive food stamp benefits, but that he did not receive the benefits to which he was entitled from approximately May 2014 to January 31, 2015. According to the amended complaint, plaintiff brings this action in order to recover “the monetary equity amount” of the benefits not received by him.

{¶6} The amended complaint contains few factual allegations pertaining to the named defendant. Indeed, defendant argues, in part, that the amended complaint is predicated upon alleged acts or omissions of the Portage County Department of Job and Family Services and does not state a claim upon which relief can be granted against defendant. It must be concluded, however, that whether or not the allegations of the amended complaint can be construed to support a claim for relief against defendant, any such claim is outside the jurisdiction of the Court of Claims.

{¶7} The Court of Claims is a court of limited jurisdiction, having exclusive jurisdiction over civil actions against the state for money damages that sound in law. *Windsor House, Inc. v. Ohio Dept. of Job & Family Servs.*, 10th Dist. Franklin No. 11AP-367, 2011-Ohio-6459, ¶ 15; *Cullinan v. Ohio Dept. of Job & Family Servs.*, 10th Dist.

Franklin No. 12AP-208, 2012-Ohio-4836, ¶ 6. “Not every claim for monetary relief constitutes ‘money damages.’ \* \* \* Unlike a claim for money damages where a plaintiff recovers damages to compensate, or substitute, for a suffered loss, equitable remedies are not substitute remedies, but an attempt to give the plaintiff the very thing to which [he] was entitled. \* \* \* Such remedies represent a particular privilege or entitlement, rather than general substitute compensation.” *Interim HealthCare of Columbus, Inc. v. Ohio Dept. of Admin. Servs.*, 10th Dist. Franklin No. 07AP-747, 2008-Ohio-2286, ¶ 15. “An action at law for damages has long been recognized as intended to provide monetary compensation for injury to the plaintiff’s person, property or reputation, whereas an equitable action for specific relief, which may include the recovery of specific property, including monies, represents a particular entitlement or privilege, and not a substitute for the loss occasioned by some prior injury.” *Morning View Care Ctr. - Fulton v. Ohio Dept. of Job & Family Servs.*, 10th Dist. Franklin No. 04AP-57, 2004-Ohio-6073, ¶ 25.

{¶8} “R.C. 2743.02(A)(1) makes clear that the Court of Claims has jurisdiction to render judgment only as to those complaints which, prior to the enactment of the Court of Claims Act, were precluded by state immunity.” *Interim HealthCare* at ¶ 12, quoting *Stauffer v. Ohio Dept. of Transp.*, 63 Ohio App.3d 248, 251 (10th Dist.1989). Consequently, the Court of Claims lacks jurisdiction over actions that only seek equitable relief, because prior to the enactment of the Court of Claims Act, parties could sue the state for equitable relief in the courts of common pleas. *Cardi v. State*, 10th Dist. Franklin No. 12AP-15, 2012-Ohio-6157, ¶ 7.

{¶9} “A suit that seeks the return of specific funds wrongfully collected or held by the state is brought in equity. Thus, a court of common pleas may properly exercise jurisdiction over the matter as provided in R.C. 2743.03(A)(2).” *Santos v. Ohio Bur. of Workers’ Comp.*, 101 Ohio St.3d 74, 2004-Ohio-28, at syllabus. “Cases in which a plaintiff claims a state agency has wrongfully collected certain funds are characterized

generally as claims for equitable restitution. \* \* \* Similarly, a claim that seeks to require a state agency to pay amounts it should have paid all along is a claim for equitable relief, not monetary damages.” *Interim HealthCare* at ¶ 17.

{¶10} According to the amended complaint, the relief sought by plaintiff is a recovery of wrongfully withheld benefits to which plaintiff was entitled all along. As such, plaintiff’s claim to recover those funds is equitable in nature and falls outside the jurisdiction of this court.

{¶11} Based upon the foregoing, defendant’s motion for judgment on the pleadings is GRANTED and plaintiff’s claim is DISMISSED without prejudice for lack of jurisdiction. All previously scheduled events are VACATED. 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.

---

PATRICK M. MCGRATH  
Judge

cc:

Patrick Abela  
10348 Knowlton Road  
Garrettsville, Ohio 44231

Christopher L. Bagi  
James P. Dinsmore  
Assistant Attorneys General  
150 East Gay Street, 18th Floor  
Columbus, Ohio 43215-3130

Filed January 25, 2016  
Sent To S.C. Reporter 3/14/16