

[Cite as *Dabney v. Ohio Dept. of Transp.*, 2017-Ohio-1130.]

MARK R. DABNEY

Plaintiff

v.

OHIO DEPARTMENT OF  
TRANSPORTATION

Defendant

Case No. 2016-00257

Judge Patrick M. McGrath  
Magistrate Sophia Chang

ENTRY GRANTING DEFENDANT'S  
MOTION FOR SUMMARY JUDGMENT

{¶1} On November 16, 2016, defendant filed a motion for summary judgment. Plaintiff did not file a response. The motion for summary judgment is now before the court for a non-oral hearing pursuant to Civ.R. 56 and L.C.C.R. 4.

{¶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 Cty.*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317 (1977).

{¶4} This matter arises from plaintiff’s complaint alleging assault, battery, negligence, products liability, intentional infliction of emotional distress, nuisance, fraud,

failure to protect, sexual trafficking, loss of reputation, defamation, and false imprisonment against the Greater Cleveland Rail Transit Authority (GCRTA) and its employees. Plaintiff alleges that he was sexually assaulted numerous times, including by GCRTA employees, while he was sleeping in GCRTA stations, buses, and trains. Plaintiff also states that defendant failed to supervise, monitor, and regulate its political subdivision.

{¶5} Defendant argues that the court does not have jurisdiction over plaintiff's claims because plaintiff has not alleged a claim against the State of Ohio but rather on a political subdivision. In support of its motion, defendant provides the affidavit of Charles Dyer, who states, in pertinent part:

{¶6} "2. I am currently employed by Defendant, Ohio Department of Transportation ('ODOT'), as the Administrator of the Office of Transit in ODOT's Division of Planning. I have held this position for approximately the past eighteen months. As Administrator for the Office of Transit, I am responsible for managing the Office of Transit, and this includes supervising staff and administering the disbursement of federal grant money to public transportation providers.

{¶7} "3. In the scope and course of my job duties, I am familiar with the Greater Cleveland Regional Transit Authority [GCRTA].

{¶8} "4. ODOT's Office of Transit disburses federal grant money to GCRTA, but ODOT does not provide any state money to GCRTA, nor does ODOT provide GCRTA with any operating funds. Moreover, ODOT provides no supervision of GCRTA staff, nor is ODOT responsible for monitoring any of GCRTA's personnel operations."

{¶9} R.C. 2743.02(E) states that "[t]he only defendant in original actions in the court of claims is the state." "State" is defined in R.C. 2743.01(A) as "the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state. "State" does not include political

subdivisions. "Political subdivisions" are municipal corporations, townships, counties, school districts, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches." R.C. 2743.01(B).

{¶10} Plaintiff did not submit any evidence to refute the statements contained in the affidavit supporting defendant's motion. Civ.R. 56(E) provides: "When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials of the party's pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party."

{¶11} Therefore, based on the undisputed testimony and viewing this matter in light most favorable to plaintiff, the court finds that there are no genuine issues of material fact that GCRTA is not the state as defined in R.C. 2743.01. Because plaintiff is seeking only claims against GCRTA and its employees, who are also not state employees, the court lacks jurisdiction to determine whether GCRTA is liable to plaintiff for his asserted claims.

{¶12} Accordingly, defendant's motion for summary judgment is hereby GRANTED, and judgment is rendered in favor of defendant. 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.

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PATRICK M. MCGRATH  
Judge

Case No. 2016-00257

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ENTRY

cc:

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**Filed January 18, 2017**  
**Sent to S.C. Reporter 3/28/17**