

[Cite as *Rembert v. Ohio Lottery Comm.*, 2006-Ohio-5662.]

IN THE COURT OF CLAIMS OF OHIO

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RON REMBERT, III

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Plaintiff

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CASE NO. 2006-02552

Judge J. Craig Wright

V.

:

OHIO LOTTERY COMMISSION

•

ENTRY GRANTING DEFENDANT'S

MOTION FOR SUMMARY JUDGMENT

Defendant

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[illegible]

{¶ 1} On April 17, 2006, defendant filed a “motion to dismiss; motion for summary judgment.” Plaintiff did not file a response. The case is now before the court for a non-oral hearing upon the motion for summary judgment.

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

{¶ 4} Plaintiff alleges that he purchased a lottery ticket on April 22, 2000, and that he believed the winning ticket would be drawn later that day. Plaintiff alleges that defendant

incorrectly processed the ticket. Plaintiff does not allege that he would have been entitled to a prize had his ticket been correctly processed.

{¶ 5} To the extent that plaintiff's complaint states a claim for relief against defendant, that claim is clearly barred by the statute of limitations. R.C. 2743.16(A) states in pertinent part:

{¶ 6} "[C]ivil actions against the state permitted by sections 2743.01 to 2743.20 of the Revised Code shall be commenced no later than two years after the date of accrual of the cause of action. ***"

{¶ 7} Plaintiff purchased the lottery ticket in question almost six years prior to filing his complaint. Additionally, according to the affidavit of Constance Miller, of the lottery commission, plaintiff spoke with her about his problem with the ticket in March 2002. Therefore, even if plaintiff was not aware of the alleged error in the processing of his ticket at the time of sale, he was unquestionably aware of it in March 2002. Accordingly, plaintiff's claim accrued no later than March 2002. Plaintiff did not file his complaint in this matter until March 20, 2006.

{¶ 8} Therefore, construing the evidence in plaintiff's favor, there can be no doubt but that plaintiff's complaint was untimely filed and that defendant is entitled to judgment as a matter of law. Defendant's motion for summary judgment is GRANTED and judgment is rendered in favor of defendant. 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

Entry cc:

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525 Canton Road, Apt. 3-D, N.W.
Carrollton, Ohio 44615

Plaintiff, Pro se

Case No. 2006-02552

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ENTRY

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