

[Cite as *Johnson v. Trumbull Correctional Inst.*, 2005-Ohio-1241.]

IN THE COURT OF CLAIMS OF OHIO

LAWRENCE JOHNSON :
Plaintiff :
v. : CASE NO. 2004-08375-AD
TRUMBULL CORR. INST. : MEMORANDUM DECISION
Defendant :

: : : : : : : : : : : : : : : :

{¶ 1} Plaintiff, Lawrence Johnson, an inmate incarcerated at defendant, Trumbull Correctional Institution ("TCI"), stated the Cashier's Office at TCI collected funds from his inmate account to satisfy a court ordered obligation issued by the Cuyahoga County Court of Common Pleas. Plaintiff related the collections totaling \$77.85 were made in February and March of 2004. According to plaintiff, all monies collected from his inmate account represented Veterans Disability Compensation deposits. Plaintiff maintained any Veterans Disability Compensation payments were not subject to court-ordered collection being immune from this type of collection procedure pursuant to federal law. Therefore, plaintiff asserted the withdrawal of funds from his inmate account constituted a wrongful collection by defendant. Consequently, plaintiff filed this complaint seeking to recover the total amount collected by defendant in February and March 2004. The filing fee was paid.

{¶ 2} Defendant acknowledged withdrawing funds from plaintiff's inmate account to pay court-ordered costs assessed against him. Defendant explained the TCI Cashier's Office was acting under statutory authority, R.C. 2329.66, when collecting the monies from

plaintiff's account and forwarding the monies to the Cuyahoga County Court of Common Pleas. Defendant admitted collecting \$20.85 on February 3, 2004, which represented part of plaintiff's Veterans Disability Compensation deposit. Defendant related plaintiff was reimbursed \$14.00 of this amount collected. Plaintiff insisted an additional \$17.00 was wrongfully collected from his account by defendant during February, 2004.¹

{¶ 3} The facts of the present action show plaintiff's claim is solely based on the alleged wrongful collection of funds pursuant to R.C. 2329.66. 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. "[T]he reimbursement of monies withheld pursuant to an invalid administrative rule is equitable relief, not money damages . . ." *id.* 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, at 214, 122 S. Ct. 708, 151 L. Ed 2d 635.

{¶ 4} "A suit that seeks the 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:

{¶ 5} "(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

¹ Plaintiff filed a response on January 27, 2005.

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.

{¶ 6} "(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."

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

made pursuant to statutory authority. See *Flanagan v. Ohio Victims of Crime Fund* (2004), 2003-08193-AD, 2004-Ohio-1842; also *Blake v. Ohio Attorney General's Office* (2004), 2004-06089-AD, 2004-Ohio-5420.

{¶ 8} 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." Concomitantly, the court cannot exercise jurisdiction over plaintiff's equitable action.

{¶ 9} On January 27, 2005, plaintiff filed a motion to change addressee payee. Plaintiff wishes any judgment to be sent to Ms. Ruth Johnson at her listed address. However, since no judgment will be granted in the plaintiff's favor this motion is moot.

IN THE COURT OF CLAIMS OF OHIO

LAWRENCE JOHNSON	:	
Plaintiff	:	
v.	:	CASE NO. 2004-08375-AD
TRUMBULL CORR. INST.	:	<u>ENTRY OF ADMINISTRATIVE</u>
Defendant	:	<u>DETERMINATION</u>

: : : : : : : : : : : : : : : :

Plaintiff's motion of January 27, 2005, is MOOT.

For the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's case is DISMISSED with prejudice. 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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Lawrence Johnson, #186-944 P.O. Box 901 Leavittsburg, Ohio 44430	Plaintiff, Pro se
--	-------------------

Gregory C. Trout, Chief Counsel Department of Rehabilitation and Correction 1050 Freeway Drive North Columbus, Ohio 43229	For Defendant
---	---------------

RDK/laa
2/3
Filed 3/10/05
Sent to S.C. reporter 3/18/05