

[Cite as *Hughley v. Southeastern Correctional Inst.* , 2009-Ohio-3107.]

COURT OF APPEALS
FAIRFIELD COUNTY, OHIO
FIFTH APPELLATE DISTRICT

KEVIN HUGHLEY

Plaintiff-Appellant

-vs-

SOUTHEASTERN CORRECTIONAL
INSTITUTION, ET AL.

Defendants-Appellees

JUDGES:

Hon. W. Scott Gwin, P.J.
Hon. William B. Hoffman, J.
Hon. Julie A. Edwards, J.

Case No. 2009CA00021

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Fairfield County Court of
Common Pleas, Case No. 2008CV975

JUDGMENT:

Reversed and Remanded

DATE OF JUDGMENT ENTRY:

June 22, 2009

APPEARANCES:

For Plaintiff-Appellant

For Defendants-Appellees

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Hoffman, J.

{¶1} Plaintiff-appellant Kevin Hughley appeals the April 7, 2009 Entry entered by the Fairfield County Court of Common Pleas, which dismissed his Complaint upon a finding the trial court lacked subject matter jurisdiction. Defendants-appellees are Southeastern Correctional Institution, et al.¹

STATEMENT OF THE FACTS AND CASE

{¶2} Appellant is an inmate at the Southeastern Correctional Institution in Lancaster, Fairfield County, Ohio. In June, 2008, the Rules Infraction Board (“RIB”) found Appellant guilty of violating certain rules of inmate conduct. Appellant exhausted all of his administrative remedies with respect to the RIB’s decision. On August 8, 2004, Appellant filed a 1983 action against Appellees, asserting constitutional violations based upon RIB’s failure to give him twenty-four hours notice of his hearing and RIB’s prohibiting him from calling witnesses. In lieu of an answer, Appellees filed a motion to dismiss, asserting the trial court lacked subject matter jurisdiction over Appellant’s Complaint. Appellant filed a memorandum in opposition to Appellees’ motion to dismiss. Via Entry filed April 7, 2009, the trial court dismissed the action in its entirety, finding it did not have subject matter jurisdiction over a civil action against the State and its agencies pursuant to R.C. 2743.03.

{¶3} It is from this entry Appellant appeals, raising as his sole assignment of error:

¹ Appellee did not file a timely Brief in this matter. Although a Brief was filed, Appellee did not seek leave to do so. Pursuant to App.R.18(C), this Court accepts Appellant’s statement of the facts and issues as correct.

{¶14} “I. TRIAL COURT ERRED BY ANNOUCING [SIC] HIS COURT DIDN’T HAVE SUBJECT MATTER THUS SHOWING BIAS & PREJUDICE WHEN DEFENDANT’S WAS IN DEFAULT SUMMING UP TO ERRED UNREASONABLE DISMISSAL.”

{¶15} This appeal is assigned to the accelerated calendar pursuant to App.R. 11.1 The purpose of an accelerated appeal is to allow this court to render a brief and conclusory opinion. *Crawford v. Eastland Shopping Mall Assn.* (1983), 11 Ohio App.3d 158, 463 N.E.2d 655.

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{¶16} In his sole assignment of error, Appellant contends the trial court erred in finding it did not have subject matter jurisdiction over the action. We agree.

{¶17} The trial court found, pursuant to R.C. 2743.03, the Ohio Court of Claims had original and exclusive jurisdiction over Appellant’s civil action against Appellees.

{¶18} R.C. 2743.03, provides, in pertinent part:

{¶19} “(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.”

{¶10} However, as a general rule, the Court of Claims lacks jurisdiction over an inmate's action against a correctional facility for recovery of money when the action arises out of conduct reports and dispositions of the Rule of Infraction Board (RIB), over which the Court of Claims does not have jurisdiction. *Clark v. Ohio State Penitentiary*, Court of Claims No. 2003-01466-AD, 2003-Ohio-2978; *Saxton v. Ohio Dept. of Rehab. & Corr.* (1992), 80 Ohio App.3d 389, 609 N.E.2d 245. Furthermore, it is well-established the Court of Claims lacks subject matter jurisdiction over alleged violations of constitutional rights and claims arising under Section 1983, Title 42, U.S.Code. *Bleicher v. Univ. of Cincinnati College of Med.* (1992), 78 Ohio App.3d 302, 604 N.E.2d 783.

{¶11} Appellant's claims against Appellees, although not artfully drafted, can be classified as constitutional claims actionable under § 1983. As such, we find the claims cannot be brought in the Court of Claims, and the trial court erred in dismissing Appellant's action.

{¶12} Appellant's sole assignment of error is sustained.

{¶13} The judgment of the Fairfield County Court of Common Pleas is reversed,
and remanded for the matter to be reinstated on the trial court's docket.

By: Hoffman, J.

Gwin, P.J. and

Edwards, J. concur

s/ William B. Hoffman
HON. WILLIAM B. HOFFMAN

s/ W. Scott Gwin
HON. W. SCOTT GWIN

s/ Julie A. Edwards
HON. JULIE A. EDWARDS

