

[Cite as *Harris v. Collins*, 2010-Ohio-3374.]

COURT OF APPEALS
RICHLAND COUNTY, OHIO
FIFTH APPELLATE DISTRICT

DWAYNE HARRIS

Plaintiff-Appellant

-vs-

TERRY COLLINS, ET AL.

Defendant-Appellees

JUDGES:

Hon. W. Scott Gwin, P.J.

Hon. William B. Hoffman, J.

Hon. Sheila G. Farmer, J.

Case No. 10CA07

OPINION

CHARACTER OF PROCEEDING:

Appeal from the Richland County Court of
Common Pleas, Case No. 08CV1683

JUDGMENT:

Affirmed

DATE OF JUDGMENT ENTRY:

July 16, 2010

APPEARANCES:

For Plaintiff-Appellant

For Defendant-Appellees

DWAYNE HARRIS, PRO SE
#211-083
P.O. Box 788
Mansfield, Ohio 44901

RICHARD CORDRAY
OHIO ATTORNEY GENERAL

ASHLEY D. RUTHERFORD
Assistant Attorney General
Criminal Justice Section
150 East Gay Street, 16th Floor
Columbus, Ohio 43215-6001

Hoffman, J.

{¶1} Plaintiff-appellant Dwayne Harris appeals the December 28, 2009 Judgment Entry entered by the Richland County Court of Common Pleas granting summary judgment in favor of Defendant-appellees Terry Collins, Cynthia Mausser, and the Ohio Adult Parole Authority.

STATEMENT OF THE CASE

{¶2} Appellant filed the within declaratory judgment action against officials and employees of the Ohio Department of Rehabilitation and Correction and the Ohio Adult Parole Authority seeking declaratory relief, injunctive relief and monetary damages.

{¶3} Appellant is an inmate incarcerated at Mansfield Correctional Institution. Appellant maintains the imposition of OAC 5120:1-1-10 in his case increased his parole eligibility to 21 years instead of 11 years and 8 months under the former policy.

{¶4} Via judgment entry the trial court granted summary judgment in favor of Appellees.

{¶5} Appellant now assigns as error:

{¶6} “THE TRIAL COURT WAS WRONG TO GRANT SUMMARY JUDGMENT IN THE FAVOR OF APPELLEE’S [SIC] DEFENDANT WHICH THE NONMOVING PARTY FAILED TO PRODUCE EVIDENCE ON ANY ISSUE FOR WHICH THAT PARTY BEARS THE PRODUCTION AT TRIAL IN VIOLATION OF CIVIL RULE 56(e) AND (c).”

{¶7} Appellant’s complaint filed with the trial court on September 2, 2008 states,

{¶8} “Plaintiff further seek [sic.] monetary relief in the form of Twenty Thousand Dollars (\$20,000) from each Defendant in this case as compensatory damages and Fifty Thousand Dollars (\$50,000) from each Defendant as punitive damages, also that the court decree Defendants pay the court costs and filing fees incurred by this action.”

{¶9} Complaints for money damages against the State of Ohio must be instituted in the Court of Claims, and the Common Pleas Court does not have jurisdiction to entertain such actions. See R.C. 2743.03. “State” is defined to include 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. R.C. 2743.01(A).

{¶10} Ohio courts also lack jurisdiction over civil actions for money damages against state officers and employees until the Court of Claims initially determines that the individual is not entitled to immunity and the common pleas court, therefore, has jurisdiction. R.C. 2743.02(F). R.C. 109.36(A)(1)(a) defines officer or employee to include anyone who at the time a cause of action against the person arises, is serving in an elected or appointed office or position with the state or is employed by the state.

{¶11} The Court of Claims has exclusive original jurisdiction in all civil suits for money damages against the state and its employees even when ancillary relief such as injunctive relief or declaratory judgment is sought. R.C. 2743.03(A)(2); *Ohio Hosp. Assn. v. Ohio Dept. of Human Services* (1991), 62 Ohio St.3d 97, 103; 579 N.E.2d 695.

{¶12} While Appellant makes a federal constitutional argument in his brief, all claims in his complaint were state law claims. Because Appellant's complaint included a claim for money damages and it is apparent from the face of the complaint appellees

are state agents or employees, we find the trial court lacked jurisdiction over the case. The Court of Claims has exclusive jurisdiction over this case.

{¶13} Appellees raised the lack of jurisdiction in their answers to Appellant's complaint. Although the court erred in reaching the merits of the motion, the court's ultimate resolution was not in error because the court lacked jurisdiction. The assignment of error raised by Appellant is rendered moot by our determination the trial court did not have subject matter jurisdiction. See *Collier v. Smith*, (June 10, 2010) Richland App. No. 2009CA0103; and *Collier v. Collins* (June 10, 2010) Richland App. 2009CA0087.

{¶14} The judgment of the Richland County Court of Common Pleas is affirmed.

By: Hoffman, J.

Gwin, P.J. and

Farmer, J. concur

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

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

s/ Sheila G. Farmer
HON. SHEILA G. FARMER

IN THE COURT OF APPEALS FOR RICHLAND COUNTY, OHIO
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DWAYNE HARRIS

Plaintiff-Appellant

-vs-

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JUDGMENT ENTRY

Case No. 10CA07

For the reason stated in our accompanying Opinion, the judgment of the Richland County Court of Common Pleas is affirmed. Costs to Appellant.

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

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

s/ Sheila G. Farmer
HON. SHEILA G. FARMER