

STATE OF MICHIGAN  
COURT OF APPEALS

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FRANK C. DIVITO,

Plaintiff-Appellant,

v

OAKLAND UNIVERSITY,

Defendant-Appellee.

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UNPUBLISHED

May 31, 2002

No. 229738

Court of Claims

LC No. 99-017352-CM

Before: Fitzgerald, P.J., and Holbrook, Jr., and Doctoroff, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting summary disposition to defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Plaintiff asserted that defendant breached an employment agreement by failing to pay his wages as an assistant baseball coach. The trial court granted defendant's motion for summary disposition, finding that there was no evidence that the person who offered plaintiff a position had the authority to hire.

Public officers can exercise only those powers conferred on them by law, and the state is not bound by contracts made in its behalf by agents who lacked authority to make an express contract. *Sittler v Bd of Control of the Michigan College of Mining and Technology*, 333 Mich 681, 687; 53 NW2d 681 (1952). The Oakland University enabling legislation gives the board of trustees the power to appoint and remove personnel. MCL 390.154. The board delegated the power to execute employment contracts to the president, vice president for finance and administration, their designee, or the vice president for employee relations. Plaintiff presented no evidence that there was any delegation of that power to the individuals who hired him.

The powers of state officers are fixed by law, and persons dealing with those officers are charged with the knowledge of the extent of their authority, and are bound, at their peril, to ascertain whether the contemplated contract is within the power conferred. *Roxborough v Unemployment Compensation Comm*, 309 Mich 505, 510-511; 15 NW2d 724 (1944). Plaintiff acted at his peril in assuming that his immediate superiors had the authority to enter into a contract of employment that was binding on the university.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Donald E. Holbrook, Jr.  
/s/ Martin M. Doctoroff