IN THE COURT OF CLAIMS OF OHIO

JOHN W. ROBARGE :

Plaintiff : CASE NO. 2000-10014

v. : ENTRY GRANTING DEFENDANTS'

MOTION FOR SUMMARY JUDGMENT

OHIO SUPREME COURT, et al. :

Defendants :

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On September 19, 2001, defendants filed a motion for summary judgment. To date, plaintiff has not filed a response. This matter is now before the court for a non-oral hearing on defendant's motion for summary judgment.

Civ.R. 56(C) states, in part, as follows:

*** 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, Williams v. First United Church of Christ (1974), 37

Ohio St.2d 150; Temple v. Wean United, Inc. (1977), 50 Ohio St.2d

317.

Plaintiff alleges that defendants were "negligent in not protecting or complying with the Ohio Revised Code, The Constitution of the State of Ohio, as well as The Constitution of the United State (sic) of America by passing and signing into law section (5) of senate bill 269 amending senate bill II ***."

Defendants argue that this court is without subject matter jurisdiction over plaintiff's constitutional claims and that they are immune from liability under the doctrine of discretionary immunity.

Upon review, this court finds that it is without jurisdiction to determine federal or state constitutional claims. Graham v. Bd. of Bar Examiners (1994), 98 Ohio App.3d 620. Additionally, the state cannot be sued for its legislative or judicial functions or the exercise of a high degree of official judgment or discretion. Reynolds v. State (1984), 14 Ohio St.3d 68.

For the foregoing reasons, defendants' motion for summary judgment is GRANTED and judgment is rendered in favor of defendants. 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.

ENTRY

JUDGE

Entry cc:

John W. Robarge, #331-755 Pro se P.O. Box 740 London, Ohio 43140-0740 [Cite as Robarge v. Supreme Court of Ohio, 2001-Ohio-6987.]

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