

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

JAMES A. SHARP

Plaintiff

v.

MARION CORRECTIONAL INSTITUTION

Defendant

Case No. 2008-11338-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On December 1, 2008, plaintiff, James A. Sharp, filed a complaint against defendant, Marion Correctional Institution. Plaintiff alleges on October 25, 2008, defendant's agent, Officer Jeremy Moore, called a random count. Plaintiff informed Officer Moore that he had taken "water pills" and needed to use the restroom. Plaintiff's request was refused and he was required to urinate in a bottle in front of approximately 90 other inmates. Plaintiff asserts he was humiliated and such conduct constituted cruel and unusual treatment, racial discrimination, abuse of discretion and inappropriate supervision. Plaintiff seeks damages in the amount of \$2,500.

{¶ 2} On February 11, 2009, defendant filed a motion to dismiss stating plaintiff's case should be dismissed based upon the court's lack of jurisdiction. Defendant states this court lacks jurisdiction to hear claims involving constitutional issues and civil rights actions. Accordingly, defendant asserts the motion to dismiss should be granted.

{¶ 3} Plaintiff has not responded to defendant's motion to dismiss.

{¶ 4} The Court of Claims lacks jurisdiction over claims asserting constitutional violations. *Langford v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 01AP-580, 2001-Ohio-8870; *Gersper v. Ohio Dept. of Hwy. Safety* (1994), 95 Ohio App. 3d 1, 641 N.E. 2d 113.

{¶ 5} Historically this court has held that it does not have jurisdiction over civil rights actions pursuant to 42 U.S.C. 1983 or over claims based solely on the alleged violation of constitutional provisions that require “state action.” *Sherrills v. MCI* (1983), 83-05439-AD; *Burkey v. Southern Ohio Correctional Facility* (1988), 38 Ohio App. 3d 170, 528 N.E. 2d 607; *Glover v. Chillicothe Correctional Inst.*, Ct. of Cl. No. 2002-02809-AD, 2003-Ohio-2963.

{¶ 6} Upon review, defendant’s motion to dismiss is GRANTED, since this court lacks subject matter jurisdiction over the allegations contained in plaintiff’s complaint. Plaintiff’s case is DISMISSED. The court shall absorb the court costs of this case.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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DRB/laa
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