

[Cite as *Thoma v. Ohio Dept. of Job & Family Servs.*, 2006-Ohio-912.]

IN THE COURT OF CLAIMS OF OHIO

GERALD THOMA	:	
	:	
Plaintiff	:	
	:	
v.	:	CASE NO. 2005-04543-AD
	:	
OHIO DEPT. OF JOB AND FAMILY SERVICES	:	<u>MEMORANDUM DECISION</u>
	:	
Defendant	:	

: : : : : : : : : : : : : : : :

{¶ 1} Plaintiff, Gerald Thoma, filed a complaint in this court asserting the Franklin County Child Support Enforcement Agency ("FCCSEA") improperly collected extra unowed poundage and processing charges to meet a child support obligation. Plaintiff maintained an amount totaling \$640.77, was collected by the FCCSEA that was not owed to the state as there was no obligation to pay. Although the FCCSEA collected money from plaintiff, he has named the Ohio Department of Job and Family Services ("ODJFS") as defendant in this action. Plaintiff charged "the State of Ohio has been unjustly enriched in the amount of \$640.77." The filing fee was paid.

{¶ 2} Defendant contended ODJFS is not the proper party to sue in an action of this type. Defendant acknowledged ODJFS is in charge of a branch section identified as Ohio Child Support Payment Central ("OCSPC"). Additionally, defendant acknowledged ODJFS has a role of general supervision over county child support enforcement agencies such as FCCSEA (see R.C. 3125.24). However, defendant explained FCCSEA is an independent county agency under the authority of the Franklin County Commissioners. Therefore,

defendant reasoned acts of FCCSEA are not controlled by ODJFS and consequently, ODJFS is not the proper party to sue for reimbursement of overpaid funds collected by FCCSEA. Defendant advised this court has no jurisdiction to hear the instant action.

Defendant stated ODJFS did not retain any funds collected from plaintiff. Defendant also stated plaintiff "had an administrative hearing at the child support agency concerning his child support case and the findings of the agency were adopted by the court on January 8, 2004." (FCCSEA findings adopted by the Court of Common Pleas of Franklin County, Ohio Division of Domestic Relations and Juvenile Branch.) Defendant suggested plaintiff's proper remedy for the adopted acts of FCCSEA is an appeal to the Court of Appeals for the Tenth Ohio Appellate District and not an original action in this court.

{¶ 3} In his response to defendant's investigation report, plaintiff countered by offering all his support overpayment was received by the state and therefore, defendant should be responsible for returning the overpayment. Plaintiff insisted ODJFS is liable to return the wrongfully collected funds.

{¶ 4} Plaintiff has failed to state a claim cognizable in this court. *Anderson v. Ohio Department of Job and Family Services*, (11-29-05), Court of Claims No. 2005-09570. Plaintiff's proper remedy in this type of claim is through the appeals process. The actions of a county child support enforcement agency cannot be imputed to the state. *Wynn v. Ohio Dept. of Job & Family Serv.*, Court of Claims Case No. 2002-03856, 2004-Ohio-307. FCCSEA is a county agency run by a political subdivision and is not a state entity as defined by R.C. 2743.02(A). Since the only proper defendant in this court is the state, not political subdivisions and their agencies, the court does not have jurisdiction to hear plaintiff's claim.

{¶ 5} Furthermore, considering plaintiff could prove ODJFS was the entity responsible for the wrongful collection, this court again has no jurisdiction in the matter. Plaintiff is seeking to recover funds he asserted were wrongfully collected, the funds sought for recovery represents a claim for equitable relief and not money damages. Consequently, this court at the Administrative Determination level has no jurisdiction over claims grounded in equity based on the wrongful collection of funds. *Dorf v. Ohio Bur. of Workers' Comp.*, 2002-10488-AD, 2004-Ohio-7295; *Flanagan v. Ohio Victims of Crime Fund*, 2003-08193-AD, 2004-Ohio-1842; also *Blake v. Ohio Attorney General's Office*; 2004-06089-AD, 2004-Ohio-5420; and *Johnson v. Trumbull Corr. Inst.*, 2004-08375-AD, jud, 2005-Ohio-1241.

IN THE COURT OF CLAIMS OF OHIO

GERALD THOMA	:	
Plaintiff	:	
v.	:	CASE NO. 2005-04543-AD
OHIO DEPT. OF JOB AND FAMILY SERVICES	:	<u>ENTRY OF ADMINISTRATIVE DETERMINATION</u>
Defendant	:	
	:	

: : : : : : : : : : : : : : :

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, plaintiff's case is DISMISSED with prejudice. 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.

---

DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

Michael M. Freda  
5212 W. Broad Street  
Columbus, Ohio 43228

Attorney for Plaintiff

David W. Robertson  
Senior Staff Attorney  
Office of Legal Services  
30 E. Broad St., 31 Floor  
Columbus, Ohio 43215

For Defendant

RDK/laa  
1/10  
Filed 1/26/06  
Sent to S.C. reporter 2/22/06