

[Cite as *Jones v. Ohio Dept. of Rehab. & Corr.*, 2006-Ohio-5674.]

IN THE COURT OF CLAIMS OF OHIO

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HENRY G. JONES

:

Plaintiff

:

CASE NO. 2005-10209

Judge Joseph T. Clark

v.

:

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

:

:

Defendant

: : : : : : : : : :

{¶ 1} On July 31, 2006, defendant filed a motion for summary judgment pursuant to Civ.R. 56(B). Plaintiff did not file a response. On September 1, 2006, the court conducted an oral hearing on the motion.

{¶ 2} Civ.R. 56(C) states, in part, as follows:

{¶ 3} “*** 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, *Gilbert v. Summit County*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

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{¶ 4} Plaintiff was an inmate in the custody and control of defendant pursuant to R.C. 5120.16 until he was released on October 3, 2003. Plaintiff asserts that defendant violated his constitutional rights and made him “an illegal slave of the state of Ohio,” which the court construes as a claim of false imprisonment arising from defendant’s alleged failure to properly calculate his release date.

{¶ 5} A complaint premised upon the violation of constitutionally guaranteed rights states a claim for relief under Section 1983, Title 42, U.S.Code. However, a cause of action under Section 1983, Title 42, U.S.Code may not be brought against the state in the Court of Claims because the state is not a “person” within the meaning of Section 1983. See, e.g., *Jett v. Dallas Indep. School Dist.* (1989), 491 U.S. 701; *Burkey v. Southern Ohio Correctional Facility* (1988), 38 Ohio App.3d 170; *White v. Chillicothe Correctional Institution* (Dec. 29, 1992), Franklin App. No. 92AP-1230. Thus, this court is without jurisdiction to hear plaintiff’s claims with regard to alleged violations of his constitutional rights.

{¶ 6} In addition, R.C. 2305.11(A) states that “[a]n action for *** false imprisonment *** shall be commenced within one year after the cause of action accrued ***.” Plaintiff’s claim for false imprisonment accrued on the date that he was released from prison. See *Mickey v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 02AP-539, 2003-Ohio-90; *Haddad v. Dept. of Rehab. & Corr.*, Franklin App. No. 01AP-1130, 2002-Ohio-2813. He was released from custody on October 3, 2003; he filed this action on October 4, 2005. Because plaintiff filed this action more than one year after the date of his release, his claim for false imprisonment is barred by the statute of limitations found in R.C. 2305.11(A).

{¶ 7} Upon review of defendant’s motion for summary judgment, the memoranda filed by the parties, the evidentiary materials submitted therewith, and construing the evidence most strongly in plaintiff’s favor, no genuine issues of material fact exist and defendant is entitled to judgment as a matter of law. Accordingly, defendant’s motion for summary judgment is GRANTED and judgment is rendered in favor of defendant. 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.

JOSEPH T. CLARK
Judge

Entry cc:

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HTS/cmd
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