

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

HUGH A. LEIMGRUBER

Plaintiff

v.

MANSFIELD CORRECTIONAL INSTITUTION

Defendant

Case No. 2008-07063-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶ 1} Plaintiff, Hugh A. Leimgruber, an inmate incarcerated at defendant, Mansfield Correctional Institution (“MaNCI”), filed this action alleging MaNCI personnel wrongfully collected \$38.00 from his inmate account on April 13, 2008 in direct violation of Ohio Admin Code 5120-5-03(C). Plaintiff seeks damages in the amount of \$38.00 “for monies lost,” plus \$212.00 “for compensatory damages for the continued hardship the inmate has suffered.” Payment of the \$25.00 filing fee was waived.

{¶ 2} Ohio Admin. Code 5120-5-03 provides a framework for the “Court order for payment of funds from inmate’s account.” Specifically, Ohio Admin. Code 5120-5-03(C) states:

{¶ 3} “(C) When a certified copy of a judgment from a court of proper jurisdiction is received directing the DRC to withhold funds from an inmate’s account, the warden’s designee shall take measures to determine whether the judgment and other relevant documents are facially valid. If a facial defect is found then a letter of explanation shall be sent to the clerk or other appropriate authority and the collection process stops until the defect is cured. If no defect is found, the warden’s designee shall promptly deliver to

the inmate adequate notice of the court-ordered debt and its intent to seize money from his/her personal account. The required notice must inform the inmate of a right to claim exemptions and types of exemptions available under section 2329.66 of the Revised Code and a right to raise a defense as well as an opportunity to discuss these objections with the warden's designee. This practice provides safeguards to minimize the risk of unlawful deprivation of inmate property.

{¶ 4} "When the pre-deprivation notice is delivered to the inmate, the warden's designee shall also deliver notice to place a hold on the inmate's account to the cashier. The court ordered amount or available portion thereof shall be held until further notice by the designee.

{¶ 5} "After the inmate's timely opportunity to assert any exemption or defense, the designee shall review the record and determine the department's authority to withdraw money from the inmate's account. The inmate shall receive notice of the designee's decision to either remove the hold and withdraw no money or initiate payments."

{¶ 6} Evidence in the present claim has shown plaintiff had a court ordered obligation for costs assessed owed to the Seneca County Court of Common Pleas. Plaintiff asserted the ManCI warden's designee failed to follow the mandates of Ohio Admin. Code 5120-5-03(C) when \$38.00 was deducted from his inmate account as partial satisfaction of a judgment for costs against him assessed by the Seneca County Court of Common Pleas. Plaintiff maintained defendant acknowledged error in collecting funds from his inmate account.

{¶ 7} Defendant admitted a procedural error was made in the "court-ordered debt collection process" affecting plaintiff. Defendant admitted when plaintiff was first received at the institution, ManCI staff "failed to conduct an interview with [p]laintiff to allow him to argue exceptions and voice objections to the collections as required by 5120-5-03." Defendant related collections on plaintiff's account ceased pending a determination of any entitlement by plaintiff to reimbursement of monies already collected and whether or not the collections should continue. Defendant subsequently complied with regulations conducting an interview with plaintiff who apparently did not present any valid exceptions or objections to enforcement of the ordered judgment. Defendant contended plaintiff is not entitled to any reimbursement of funds collected

and advised the collection process will continue until the judgment is satisfied. Defendant noted error in failing to conduct an interview with plaintiff before collecting the \$38.00 from his account, but the error purportedly, “resulted in no harm to plaintiff.”

{¶ 8} Plaintiff filed a response stating he was harmed by the fact \$38.00 was collected from his inmate account. Plaintiff explained the harm to him consisted of his inability to purchase personal hygiene articles from the ManCI commissary for an eight week period. Plaintiff stated he “does not deny the validity of (the) claim against him by Seneca County for fines and costs.” Nevertheless, plaintiff pointed out defendant did not comply with administrative regulations when collecting funds to partially satisfy the judgment against him. Plaintiff insisted defendant wrongfully collected money from him.

{¶ 9} This court does not recognize any entitlement to extraordinary damages for allegations of simple negligence involving property loss. *Galloway v. Department of Rehabilitation and Correction* (1979), 78-0731-AD; *Berke v. Ohio Dept. of Pub. Welfare* (1976), 52 Ohio App. 2d 271, 6 O.O. 3d 280, 369 N.E. 2d 1056. Plaintiff’s claim for \$212.00 “for compensatory damages for the continued hardship the inmate has suffered” is denied. To the extent that plaintiff asserts claims based upon due process violations, it is well-settled that such claims are not actionable in the Court of Claims. See *Thompson v. Southern State Community College* (June 15, 1989), Franklin App. No. 89AP-114; *Burkey v. Southern Ohio Corr. Facility* (1988), 38 Ohio App. 3d 170, 528 N.E. 2d 607.

{¶ 10} Prison regulations, including those contained in the Ohio Administrative Code, “are primarily designed to guide correctional officials in prison administration rather than to confer rights on inmates.” *State ex rel. Larkins v. Wilkinson*, 79 Ohio St. 3d 477, 1997-Ohio-139, 683 N.E. 2d 1139, citing *Sandin v. Conner* (1995), 515 U.S. 472, 481-482, 115 S. Ct. 2293, 132 L. Ed. 2d 418. Additionally, this court has held that “even if defendant had violated the Ohio Administrative Code, no cause of action would exist in this court. A breach of internal regulations in itself does not constitute negligence.” *Williams v. Ohio Dept. of Rehab. and Corr.* (1993), 67 Ohio Misc. 2d 1, 3, 643 N.E. 2d 1182. Accordingly, to the extent plaintiff alleges ManCI staff failed to comply with internal prison regulations and the Ohio Administrative Code, he fails to state a claim for relief.

{¶ 11} Furthermore, considering if plaintiff could prove defendant’s acts did

constitute a wrongful collection, this court 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.*, Ct. of Cl. No. 2002-10488-AD, 2004-Ohio-7295; *Flanagan v. Ohio Victims of Crime Fund*, Ct. of Cl. No. 2003-01893-AD, 2004-Ohio-1842; Also, *Blake v. Ohio Attorney General's Office*, Ct. of Cl. No. 2004-06089-AD, 2004-Ohio-5420; and *Johnson v. Trumbull Corr. Inst.*, Ct. of Cl. No. 2004-08375-AD, jud, 2005-Ohio-1241.

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ENTRY OF ADMINISTRATIVE DETERMINATION

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor

of defendant. Court costs are assessed against plaintiff.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
1/15
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