

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

GREGORY MADDEN

Plaintiff

v.

LEBANON CORRECTIONAL INST.

Defendant

Case No. 2008-08566-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Gregory Madden, an inmate incarcerated at defendant, Lebanon Correctional Institution (“LeCI”), stated he was improperly accused by defendant of breaking a toilet and then improperly charged a \$211.00 assessment to pay for the broken toilet. Plaintiff asserted the toilet was actually broken by a plumber who was assigned to unclog it. Plaintiff alleged the plumber broke the toilet when he “got the snake stuck in the toilet.” Plaintiff denied he did anything to damage the toilet and reported the appliance was damaged.

{¶ 2} 2) Plaintiff filed this complaint seeking to recover damages in the amount of \$211.00, the amount he was assessed as a replacement cost for a new toilet. Plaintiff requested reimbursement of \$25.00 for filing fee costs and \$15.00 for postage and copying expenses. Plaintiff did not pay any filing fee to prosecute this action. Postage and copying costs are not subject to reimbursement. Plaintiff’s claim is limited to \$211.00.

{¶ 3} 3) On May 9, 2007, plaintiff was issued a conduct report charging him with clogging a toilet in his cell (3-J-32) with his state issue blue shirt. According to the

Conduct Report when the toilet was removed from cell 3-J-32, plaintiff's state issue "shirt was discovered in the toilet." The shirt "had been tied in a knot and shoved in the toilet to clog the plumbing up (and it was discovered) the shirt had (plaintiff's) name tag on it."

{¶ 4} 4) Defendant explained plaintiff appeared before the LeCI Rules Infraction Board ("RIB") to answer the charges he deliberately clogged and broke the toilet in cell 3-J-32. The RIB ordered plaintiff to pay restitution "in the amount of \$710 for a replacement stainless steel toilet and \$8.60 for a state issue blue shirt." The restitution assessment order was subsequently reduced to \$211.00 for a porcelain toilet. Defendant insisted plaintiff's claim is nothing more than an attempt to appeal his RIB conviction. Defendant stated "[i]t is well established that this court does not have jurisdiction to review decisions of the Rules Infraction Board." See *Bristow v. Lorain Correctional Institution* (1996), 95-09612-AD. Additionally, defendant contended LeCI has authority under the Ohio Administrative Code to order inmates to pay restitution for property that was deliberately damaged. Evidence submitted tends to establish the toilet in cell 3-J-32 was deliberately clogged with a state issue blue shirt that bore plaintiff's name tag.

CONCLUSIONS OF LAW

{¶ 5} 1) The Supreme Court of Ohio has held that "[t]he language in R.C. 2743.02 that 'the state' shall 'have its liability determined *** in accordance with the same rules of law applicable to suits between private parties ***' means that the state cannot be sued for its legislative or judicial functions or the exercise of an executive or planning function involving the making of a basic policy decision which is characterized by the exercise of a high degree of official judgment or discretion." *Reynolds v. State* (1984), 14 Ohio St. 3d 68, 70, 14 OBR 506, 471 N.E. 2d 776; see also *Von Hoene v. State* (1985), 20 Ohio App. 3d 363, 364, 20 OBR 467, 486 N.E. 2d 868. Prison administrators are provided "wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." *Bell v. Wolfish* (1979), 441 U.S. 520, 547, 99 S. Ct. 1861, 60 L. Ed. 2d 447.

{¶ 6} 2) 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 447, 449, 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 that plaintiff alleges that DRC somehow violated internal prison regulations and the Ohio Administrative Code, he fails to state a claim for relief.

{¶ 7} 3) Plaintiff’s claim arises out of conduct reports and Dispositions of the RIB. It is well settled that the court does not have jurisdiction to review decisions made by the RIB. *Burton v. Lorain Corr. Inst.* (1996), 95-09612-AD; *Clark v. Ohio State Penitentiary*, Ct. of Cl. No. 2003-01466-AD, 2003-Ohio-2978. Accordingly, plaintiff’s claim is dismissed on this basis.

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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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