

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

DOUGLAS BARNETT

Plaintiff

v.

NORTH COAST CORRECTIONAL TREATMENT FACILITY

Defendant

Case No. 2009-01921-AD

Deputy Clerk Daniel R. Borchert

ENTRY OF DISMISSAL

{¶ 1} On February 3, 2009, plaintiff, Douglas Barnett, filed a complaint against defendant, North Coast Correctional Treatment Facility (“NCCTF”). Plaintiff alleges on or about November 8, 2008, he suffered personal injury due the negligence of the defendant. Plaintiff submitted an affidavit of indigency.

{¶ 2} On February 26, 2009, defendant filed a motion to dismiss. In support of the motion to dismiss, defendant stated in pertinent part:

{¶ 3} “The Department contends NCCTF is not the proper defendant. Rather, the proper defendant is the Management & Training Corporation. According to the complaint, its employees are alleged to have caused plaintiff’s harm. The Department’s position is based on the fact it (the State) only owns the property and facilities that comprise the institution, and the belief NCCTF is a proper defendant only to the extent that a complaint states a claim relating to the realty. As such, NCCTF had no duty toward plaintiff with regard to the subject matter of the complaint. Any duty should fall to the contractor.

{¶ 4} “Department employees are not involved in the institution’s daily operations. Employees of Management & Training Corporation conduct these functions. While the vendor operates and maintains NCCTF in accordance with contractual and statutory criteria, it does so independently. The Department is not involved in the vendor’s decision making. The Department does not play any part in hiring, paying, or supervising the vendor’s employees. Pursuant to Section 9.06 of the Ohio Revised Code, Management & Training Corporation’s employees do not enjoy the same immunity conferred on state employees. There is no agency relationship between the parties. The Department is simply a party to a contract where Management & Training Corporation supplies personnel and performs services.”

{¶ 5} Plaintiff has not filed a response to defendant’s motion to dismiss.

{¶ 6} R.C. 2743.03(A) in pertinent part states:

{¶ 7} “The court of claims is a court of record and has exclusive, original jurisdiction of all civil actions against the state permitted by the waiver of immunity contained in section 2743.02 of the Revised Code . . .”

{¶ 8} R.C. 2743.02(F) states, in pertinent part:

{¶ 9} “The only defendant in original actions in the court of claims is the state.”

{¶ 10} A review of plaintiff’s pleadings and additional documentation reveals he is alleging negligence against personnel who are employed by Management & Training Corporation and not the defendant.

{¶ 11} R.C. 9.06(D) in pertinent part states:

{¶ 12} “A contractor that has been approved to operate a facility under this section . . . shall indemnify and hold harmless the state, its officers, agents, and employees, and any local government entity in the state having jurisdiction over the facility or ownership of the facility . . .”

{¶ 13} Management & Training Corporation is not a state entity and, accordingly, cannot be sued in an original action in the Court of Claims. See *Johnson v. Lake Erie*

Correctional Institution (2001), 3001-06142-AD, affirmed jud (3-7-02); *Hernandez v. Lake Erie Correctional Institution* (2001), 2001-06428-AD, affirmed jud (4-15-02).

{¶ 14} Upon review, defendant's motion to dismiss is GRANTED. 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
3/18
Filed 3/26/09
Sent to S.C. reporter 6/19/09