

[Cite as *Wright v. S.E.A.R.C.H.*, 2016-Ohio-7122.]

QUAISON WRIGHT

Plaintiff

v.

S.E.A.R.C.H.

Defendant

Case No. 2015-00967

Judge Patrick M. McGrath
Magistrate Sophia Chang

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

{¶1} On June 3, 2016, defendant filed a motion for summary judgment. On June 6, 2016, special counsel for defendant filed another motion for summary judgment. Plaintiff did not file a response. The motions for summary judgment are now before the court for a non-oral hearing pursuant to Civ.R. 56 and L.C.C.R. 4.

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

{¶4} This matter arises from plaintiff’s complaint alleging negligence during his time at the North West Community Corrections Center (NWCCC), which plaintiff

incorrectly identifies as S.E.A.R.C.H.¹ NWCCC is a community based corrections facility under the program created by Ohio Administrative Code (OAC) 5120, which defines the facility as “a secure facility used to confine persons sentenced by the court or courts of common pleas or referred by a legal entity which conforms to operating standards established by the department of rehabilitation and correction.” OAC 5120:1-14-01(F). Plaintiff alleges that during his stay, his snoring disturbed fellow residents and that he was hit in the face, head, and back by those residents. Plaintiff states that defendant knew of the risk and had a duty to protect him from the attack.

{¶5} In both motions for summary judgment, defendant and its special counsel argue that this court does not have subject matter jurisdiction over plaintiff’s claims because NWCCC is not considered the state or a state agency as defined by R.C. 2743.01(A). In support of its argument, defendant provides the affidavits of Christopher Galli (Galli), chief of the Bureau of Community Sanctions under the Ohio Department of Rehabilitation and Correction (ODRC) and Cary Williams (Williams), the executive director of NWCCC.

{¶6} Defendant explains in its motions that NWCCC, although partially funded by ODRC, is not controlled or operated by ODRC. Rather, NWCCC has a “Facility Governing Board” (Board), which includes representatives from Defiance, Fulton, Henry, Williams, and Wood Counties. Defendant further states that the employees at NWCCC are not employees of defendant pursuant to both OAC 5120:1-14-3(K) and R.C. 5120.112(D)(3). Defendant argues that because NWCCC is controlled and operated by the Board, which represents only the five counties in the region, it falls under a political subdivision as defined by R.C. 2743.01(B) and does not fall under the jurisdiction of the Court of Claims.

¹S.E.A.R.C.H. is a treatment program offered at NWCCC. The address provided by plaintiff for S.E.A.R.C.H. is the same address as the NWCCC facility: 1740 E. Gypsy Lane Rd., Bowling Green, Ohio 43402.

{¶7} Furthermore, Galli explains in his affidavit that there are currently eighteen community based correctional facilities in the State of Ohio and that each facility is operated by its own governing board. He further states that defendant has no oversight over the boards, does not appoint members to the boards, and does not hire, fire, or discipline any of the staff at the facilities. Williams' affidavit affirms Galli's statements and states that NWCCC is not a state agency and that funding for the facility can come from the federal government, any public source for the support of the subsidy programs, and any private source.

{¶8} Indeed, R.C. 2743.02(E) states that "[t]he only defendant in original actions in the court of claims is the state." "State" is defined in R.C. 2743.01(A) as "the state of Ohio, including, but not limited to, the general assembly, the supreme court, the offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state. "State" does not include political subdivisions. "Political subdivisions" are municipal corporations, townships, counties, school districts, and all other bodies corporate and politic responsible for governmental activities only in geographic areas smaller than that of the state to which the sovereign immunity of the state attaches." R.C. 2743.01(B).

{¶9} OAC 5120, in setting forth the rules and procedures for community based corrections facilities like NWCCC also states that "[a]ll persons who staff the community-based correctional facility and programs, including those who receive some or all of their salaries from state financial assistance, are not employees of the department of rehabilitation and correction." See *also* R.C. 5120.112(D)(3).

{¶10} Therefore, based on the foregoing and viewing this matter in light most favorable to plaintiff, the court finds that there are no genuine issues of material fact and that NWCCC is not the state as defined in R.C. 2743.01. Accordingly, because plaintiff is seeking only claims against NWCCC and its employees, who are also not state employees pursuant to the Revised Code and OAC, the court lacks jurisdiction to

determine whether NWCCC is liable to plaintiff for his asserted claims. Defendant's and defendant's special counsel's motions for summary judgment are hereby GRANTED and judgment is rendered in favor of defendant. All previously scheduled events are VACATED. 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.

PATRICK M. MCGRATH
Judge

cc:

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Filed August 9, 2016
Sent to S.C. Reporter 9/30/16