

[Cite as *Bradsher v. Ohio Dept. of Rehab. & Corr.*, 2003-Ohio-4490.]

IN THE COURT OF CLAIMS OF OHIO

HAROLD BRADSHER :
 :
 Plaintiff :
 :
 v. : CASE NO. 2003-04627-AD
 :
 OHIO DEPARTMENT OF : MEMORANDUM DECISION
 REHABILITATION AND CORRECTION :
 :
 Defendant :
 :
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{¶1} Plaintiff, Harold Bradsher, an inmate incarcerated at defendant’s Madison Correctional Institution, placed a \$28.00 food and beverage order with the Combined Charitable Campaign. Printed fliers explaining policies for receipt of ordered goods accompanied the order forms. The fliers specifically stated that any inmate who was in segregation or away with leave from the institution at the time the orders were delivered would forfeit his order. On the date plaintiff’s food and beverage order was delivered, he was away with leave from the institution for outside medical treatment. Consequently, plaintiff’s food and beverage order was forfeited by defendant.

{¶2} Despite acknowledging he was aware of the order forfeiture policy, plaintiff has contended he should receive a refund for the purchase price of the forfeited goods. Therefore, plaintiff filed this complaint seeking to recover \$28.00, the amount he paid for the ordered and subsequently forfeited food and beverages. Plaintiff also seeks recovery of the \$25.00 filing fee. Plaintiff believes he is entitled to recover the purchase price of the forfeited order based on the fact defendant previously waived its forfeiture policy in a situation involving another inmate.

{¶3} Defendant denied liability. Defendant asserted plaintiff was placed on notice

of the forfeiture policy and essentially has no recourse. Defendant suggested any past practice regarding waiver of the forfeiture policy is irrelevant.

{¶4} Plaintiff filed a response. The information contained in the response neither adds to nor detracts from plaintiff's claim regarding his entitlement to recovery.

{¶5} The state cannot be sued for the exercise of any executive or planning function involving the making of a policy decision characterized by the use of a high degree of discretion. *Reynolds v. State* (1984), 14 Ohio St. 3d 68. Plaintiff's claim is denied.

{¶6} 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. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Harold Bradhser, #206-905
P.O. Box 740
London, Ohio 43140-0740

Plaintiff, Pro se

Gregory C. Trout, Chief Counsel

For Defendant

Department of Rehabilitation
and Correction
1050 Freeway Drive North
Columbus, Ohio 43229

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