

[Cite as *Blake v. Ohio Attorney General's Office.* , 2004-Ohio-5420.]

IN THE COURT OF CLAIMS OF OHIO

RONALD P. BLAKE :

Plaintiff :

v. : CASE NO. 2004-06089-AD

OHIO ATTORNEY GENERALS OFFICE : MEMORANDUM DECISION

Defendant :

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{¶ 1} Plaintiff, Ronald P. Blake, an inmate incarcerated at the Lebanon Correctional Institution, related that since August 1997, funds have been withdrawn from his inmate account to satisfy a civil judgment rendered against him initiated by defendant, Attorney General’s Office, Crime Victims Subrogation Unit. Under the judgment, obtained by defendant, plaintiff was liable to repay the Crime Victims Reparations Fund \$14,058.50 paid to a claimant in a crime victims claim in 1981. Defendant obtained the judgment against plaintiff pursuant to subrogation, repayment, and reimbursement rights granted by R.C. 2743.72.¹ The judgment against plaintiff was rendered by

¹ § 2743.72 Reimbursement, repayment, subrogation rights of reparations fund.

“(A) The payment of an award of reparations from the reparations fund established by section 2743.191 [2743.19.1] of the Revised Code creates a right of reimbursement, repayment, and subrogation in favor of the reparations fund from an individual who is convicted of the offense that is the basis of the award of reparations. For purposes of establishing an individual’s liability under this provision, a certified judgment of the individual’s conviction together with the related indictment is admissible as evidence to prove the individual’s liability.

“(L) The reparations fund, through the attorney general, may assert its repayment, reimbursement, or subrogation rights through correspondence with the claimant, offender, or third party, or their legal representatives. The assertion is not to be considered the assertion of a consumer debt.

“(M) The reparations fund, through the attorney general, may institute and pursue legal proceedings against an offender, third party, or overpaid claimant. In actions against an offender or third party, the claimant and victim are not necessary parties to the action.

default in the Franklin County Court of Common Pleas.

{¶ 2} Plaintiff asserted defendant wrongfully collected money from his inmate account. Plaintiff intimated defendant filed an untimely civil action against him and the judgment is therefore void. Plaintiff did not choose to appeal the default judgment rendered against him. Plaintiff expressed additional reasons why he believes the judgment obtained against him is void. Plaintiff did not choose to make these arguments during the course of the civil action filed against him by defendant, in the Franklin County Court of Common Pleas. Plaintiff related \$489.96 has been collected from his inmate account as partial satisfaction for the judgment obtained by defendant. Plaintiff filed this complaint requesting the collected funds be returned to his account. The requisite material \$25.00 filing fee was paid.

{¶ 3} Defendant acknowledged obtaining a default judgment against plaintiff on November 13, 1997, based on subrogation rights granted under R.C. 2743.72. Plaintiff did not respond to the complaint filed against him by defendant. Plaintiff did not appeal the subsequent judgment rendered. Defendant contended this court lacks jurisdiction over a final decision of the Franklin County Common Pleas Court. Defendant suggested this court lacks jurisdiction over any issues raised by plaintiff regarding the collection of funds from his inmate account.

{¶ 4} Plaintiff insisted defendant wrongfully collected funds from his account. Plaintiff alleged he was not notified of the suit filed against him by defendant. Plaintiff stated he was not aware he had a right to appeal the default judgment rendered against him. Plaintiff reasserted the judgment rendered against him should be declared void. Plaintiff did not offer any argument or theory to establish how this court under the provisions of R.C. 2743.10 has jurisdiction over his claim.²

{¶ 5} The facts of the present action show plaintiff's claim is solely based on the alleged

"(N) The costs and attorney's fees of the attorney general in enforcing the reparations fund's reimbursement, repayment, or subrogation rights are fully recoverable from the liable offender, third party, or overpaid claimant.

"(O) All moneys that are collected by the state pursuant to its rights of subrogation as provided in this section or pursuant to the attorney general's authority to recover some or all of an award of reparations that is granted pursuant to this section shall be deposited in the reparations fund."

² Plaintiff filed a response on August 23, 2004.

wrongful collection of funds pursuant to R.C. 2743.72. Since this particular action is for the recovery of an alleged wrongful collection, the claim is grounded solely in equity. *Ohio Hosp. Assn. v. Ohio Dept. of Human Servs.* (1991), 62 Ohio St. 3d 97. “[T]he reimbursement of monies withheld pursuant to an invalid administrative rule is equitable relief, not money damages. . .” *id.* at 105. “Thus, for restitution to lie in equity, the action generally must seek not to impose personal liability on the defendant, but to restore to the plaintiff particular funds or property in the defendant’s possession.” *Great-West Life & Annuity Ins. Co. v. Knudson* (2002) 534 U.S. 204, at 214, 122 S. Ct. 708, 151 L. Ed 2d 635.

{¶ 6} “A suit that seeks the return of specific funds wrongfully collected or held by the state is brought in equity.” *Santos et al. v. Ohio Bureau of Workers’ Compensation*, 101 Ohio St. 3d 74, 2004-Ohio-28 at paragraph one of the syllabus. R.C. 2743.03(A)(1) and (2) states:

{¶ 7} “(A)(1) There is hereby created a court of claims. 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, exclusive jurisdiction of the causes of action of all parties in civil actions that are removed to the court of claims, and jurisdiction to hear appeals from the decisions of the court of claims commissioners. The court shall have full equity powers in all actions within its jurisdiction and may entertain and determine all counterclaims, cross-claims, and third-party claims.

{¶ 8} “(2) If the claimant in a civil action as described in division (A)(1) of this section also files a claim for a declaratory judgment, injunctive relief, or other equitable relief against the state that arises out of the same circumstances that gave rise to the civil action described in division (A)(1) of this section, the court of claims has exclusive, original jurisdiction to hear and determine that claim in that civil action. This division does not affect, and shall not be construed as affecting, the original jurisdiction of another court of this state to hear and determine a civil action in which the sole relief that the claimant seeks against the state is a declaratory judgment, injunctive relief, or other equitable relief.”

{¶ 9} Additionally, R.C. 2743.10(A) states in pertinent part: “Civil actions against the state for two thousand five hundred dollars or less shall be determined administratively by the clerk of the court of claims . . .” R.C. 2743.10 does not confer equity jurisdiction at the Administrative

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