

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
MIDDLE DIVISION

FILED

OCT 21 2009

Tennessee Claims Commission
CLERK'S OFFICE

WADE STAGGS, SR.,)
)
 Claimant,)
)
 vs.)
)
 STATE OF TENNESSEE,)
)
 Defendant.)

Claim No. 20091213

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ORDER OF DISMISSAL

Claimant, Wade Staggs Sr., has filed this claim *pro se*, for violations of his constitutional rights under the state and federal constitutions. Mr. Staggs alleges that in 2006, he was arrested and convicted of fifty-nine (59) felony offenses and sentenced to ten years. After he had served three years in prison, fifty-eight of his convictions were overturned by the Court of Criminal Appeals, which determined that the sentences violated his rights under the Double Jeopardy Clause of the Fifth Amendment to the United States Constitution. *See State v. Staggs* No. M200701228CCAR3CD, 2009 WL 363323 (Tenn.Crim.App. Feb 13, 2009). The Court also found that his rights under the Sixth Amendment to the United States Constitution

had been violated based on the trial court's application of enhancement factors with respect to his sentence.

Mr. Staggs contends that his sentence violated his constitutional and statutory rights. As relief, he seeks \$300,000.

Pending before the Commission is the State's motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. The State argues that the Commission lacks subject matter jurisdiction over Mr. Staggs' claim for violation of his constitutional rights. In addition, because Mr. Staggs does not allege that the statute upon which he relies expressly grants him a private right of action against the State for its violations, his claim for negligent deprivation of a statutory right must be dismissed. Mr. Staggs has not responded to the motion.

Discussion

The Claims Commission is a forum of limited jurisdiction. The categories of claims over which the Claims Commission has jurisdiction are set forth in Tenn. Code Ann. § 9-8-307. If a claim falls outside of the categories specified in section 9-8-307(a), then the state retains its

immunity from suit, and a claimant may not seek relief from the state.

Stewart v. State, 33 S.W.3d 785, 790 (Tenn. 2000).

Mr. Staggs contends that he has suffered violations of his rights under the Tennessee Constitution and the U. S. Constitution. While the State has consented to suit for damages relative to the categories of claims set forth in Tenn. Code Ann. § 9-8-307(a)(1), it has not waived its immunity from suit for claims for constitutional law violations under the state or federal constitutions and the State of Tennessee is not a person amenable to suit under 42 U.S.C. § 1983. *Will v. Michigan Dept. of State Police*, 491 U.S. 58, 109 S.Ct. 2304, 105 L.Ed.2d 45 (1989). Tennessee has not recognized any implied cause of action for damages based upon violations of the Tennessee Constitution. See *Bowden Bldg. Corp. v. Tennessee Real Estate Com'n*, 15 S.W.3d 434, 446 (Tenn.Ct.App. 1999)); *Lee v. Ladd*, 834 S.W.2d 323, 324 (Tenn.App. 1992).

Nor may the Commission hear claimant's allegations that his statutory rights under Tenn. Code Ann. § 40-35-501(a)(3) were violated. In order to state a claim for negligent deprivation of a statutory right under Tenn. Code Ann. § 9-8-307(a)(1)(N), Mr. Staggs must show "that the

general assembly expressly conferred a private right of action in favor of the claimant against the state for the state's violation of the particular statute's provisions[.]” Tenn. Code Ann. § 9-8-307(a)(1)(N)(emphasis added).

Because Mr. Staggs has not alleged a cause of action falling within the Commission's jurisdiction, his complaint is dismissed.

It is so **ORDERED** this the 21st day of October, 2009.



STEPHANIE R. REEVERS
Claims Commissioner

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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WADE STAGGS, SR.
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This 21st day of October 2009.



Marsha Richeson, Administrative Clerk
Tennessee Claims Commission