

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE  
MIDDLE DIVISION

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DAVID ANTHONY AVERY #437427 )  
AKA AZIZI MWANA )  
 )  
Claimant, ) Claim No. T20152066  
 )  
vs. )  
 )  
STATE OF TENNESSEE, )  
 ) Regular Docket  
Defendant. )

ORDER OF DISMISSAL

This claim came before Robert N. Hibbett, Commissioner and judge of the facts and law, upon the State's Motion to Dismiss for lack of jurisdiction. The Claimant has filed a response and a motion for default judgment. In his formal complaint, the Claimant prayed for release from prison and other relief based upon a private commercial claim and a commercial claim and demand contract.

The authority of the Claims Commission to render damages is set forth by statute. As provided under Tenn. Code Ann. § 9-8-307(a)(1), the Commission has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of state employees. If a

claim falls outside of the categories specified in § 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).

The Claimant does not state the jurisdictional basis of his claim which must fall under one of the claims set forth under from Tenn. Code Ann. § 9-8-307(a)(1). The statute provides:

The commission or each commissioner sitting individually has exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of "state employees," as defined in § 8-42-101(3), falling within one (1) or more of the following categories:

The statute then sets forth a definitive list of categories that the General Assembly has allowed the State's sovereign immunity to be abrogated. If the claim does not fall within some category on this list, then the Claims Commission may not hear the claim and it must be dismissed. The Claims Commission does not make law; it must follow the law on each and every point as enacted by the General Assembly and interpreted by our appellate courts.

The Tribunal simply has no authority to release anyone from prison; it may only award monetary damages. The Claimant has not cited a basis

for jurisdiction under Tenn. Code Ann. § 9-8-307 and the Tribunal cannot adjudicate a claim without jurisdiction. **The Tribunal respectfully dismisses this claim with prejudice.** This is a final judgment.

IT IS SO ORDERED this the 28 day of August, 2015.

A handwritten signature in black ink, appearing to read 'R. Hibbett', is written over a horizontal line.

ROBERT N. HIBBETT  
Claims Commissioner  
Sitting as the Trial Court of Record

**CERTIFICATE OF SERVICE**

This is to certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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5249 Highway 67 W.  
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This 31<sup>st</sup> day of Aug., 2015.

*Paula Merrifield*

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PAULA MERRIFIELD  
Administrative Clerk  
Tennessee Claims Commission