

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE  
MIDDLE DIVISION

FILED  
CLAIMS COMMISSION  
CLERK'S OFFICE

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IWANDA BUCHANAN, )  
 ) Claim No. T20141231  
 )  
 Claimant, )  
 )  
 vs. )  
 )  
 STATE OF TENNESSEE, )  
 ) Regular Docket  
 Defendant. )

**ORDER GRANTING STATE'S MOTION FOR SUMMARY JUDGMENT  
AND DISMISSAL OF CLAIM**

This matter came before Robert N. Hibbett, Commissioner and judge of the facts and law. The Claimant seeks damages totaling \$300,000 for medical expenses and future medical expenses related to alleged negligent conduct by the State while she was incarcerated at the Tennessee Prison for Women. Complaint at ¶ 15-18; 2-5. The State has filed a Motion for Summary Judgment. The State has requested summary judgment based on the argument that the Claims Commission lacks jurisdiction to hear this case. The Claimant filed an Opposition to Motion for Summary Judgment. Oral argument was heard on August 26, 2015. After consideration of the State's motion, memorandum of law,

affidavits, and exhibits, the Claimant's Opposition, oral argument, and the record as a whole, this Tribunal grants the State's Motion for Summary Judgment.

Summary judgment in Tennessee is governed by the Tennessee Rules of Civil Procedure, Rule 56.04, which states the following:

Subject to the moving party's compliance with Rule 56.03, the judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.

Claimant was an inmate at the Tennessee Prison for Women when, on March 20, 2013, she fell from the top bunk of her cell and landed on her left arm. *See* Complaint at ¶ 6; *see also* Medical Records at p. 5. The Claimant was transported to Nashville General Hospital, where it was determined that she sustained a colles fracture of the wrist and ulnar styloid process fracture. *See* Medical Records at p. 6-7. The discharge instructions noted the following: "arrange for a follow up appointment with. 2-General Hospital Ortho Clinic, DO in Monday morning, March 25th for ortho clinic, 8:00 am" *See* Medical Records at p. 7. On March 27, 2013, a health care provider employed by Corizon, Inc. noted in Claimant's medical chart that, "ED [Emergency Department] notes were not received in time" for the March 25th orthopedic consultation to be made. *See*

Medical Records at p. 1. The claimant was released from state custody on April 3, 2013. Complaint at ¶ 14.

The Claims Commission has jurisdiction over “monetary claims against the state based on the acts or omissions of ‘state employees,’ as such term is defined in § 8-42-101(3).” Tenn. Code Ann. § 9-8-307(a)(1). A state employee is defined as “any person who is employed in the service of the state and whose compensation is payable by the state.” Tenn. Code Ann. § 8-42-101(3)(A). The statute explicitly excludes persons who are “employed on a contractual or percentage basis.” *Id.*; see also *Younger v. State*, 205 S.W.3d 494 (Tenn. Ct. App. 2006). The Claims Commission has jurisdiction over the negligent acts of state employees. Tenn. Code Ann. § 9-8-307(a)(1). However, the Commission does not have jurisdiction over the alleged negligent acts of an independent contractor or the employees of a private company. *Younger*, S.W.3d at 498-99; *Martin v. State*, 2001 WL 747640 at \*1 (Tenn. Ct. App.). In *Younger*, the Court of Appeals stated the following: “[T]he proper defendant for negligence claims arising from the action of private contractors, or their employees, in operation correctional facilities is the contractor, and not the State.” *Id.* at 499.

The claim at issue in this case pertains to alleged negligent conduct regarding Claimant's orthopedic injury. The decision-makers involved in the assessment, triage, planning, and scheduling of consultations and referrals were clinical personnel in the employ of Corizon, Inc. or Nashville General Hospital. See Affidavits of Brenda Boyd and Bryce Coatney.<sup>1</sup>

The Claimant has not provided any documentation or affidavit to show that state employees had knowledge of the Claimant's follow-up appointment on March 25, 2014 in order to transport her. All the records and documentation reflect that employees of Corizon, Inc. and Nashville General Hospital were

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<sup>1</sup> The State has argued that since a medical provider contractor had been hired and provided medical care to the inmate, the State had no duty to provide medical care. This argument is in error. The State does have the duty to render medical aid when necessary. In other words, the State must provide reasonable access to necessary health care. In an unreported opinion involving the negligence claims of an inmate, the Court of Appeals concurred with the determinations of the Claims Commissioner (Judge):

However there is a factual issue concerning subsection five of TCA 9-8-307 concerning the negligent care, custody, and control of persons. In order for the claimant to recover, the claimant must show that the State of Tennessee was negligent and failed in the required duty that it had toward the claimant. It is the opinion of the Commissioner that the duty of care required by the State of Tennessee is one in which it owes to a prisoner in its care the duty to exercise ordinary diligence to keep him safe and free from harm, *to render him medical aid when necessary*, and to treat humanly and refrain from oppressing that prisoner. Where the State or its officials is negligent in the care and custody of a prisoner or fails in the performance of its duties to him, and as a result the prisoner is injured, the State of Tennessee is liable. (Emphasis added)

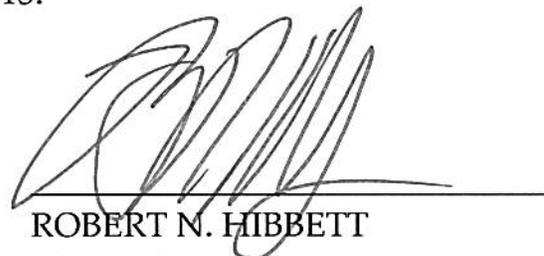
*Laws v. State of Tennessee Dep't of Correction*, No. C.A. 36, 1986 WL 8820, at \*1 (Tenn. Ct. App. Aug. 14, 1986)

Since the alleged negligent conduct pertains to actions of an independent contractor, not the actions of state employees, the Tribunal finds that it lacks jurisdiction over this claim. The Tribunal further finds there is nothing in the record to indicate that the State did not provide reasonable access to necessary health care. There is no genuine issue as to any material fact, and the State is entitled to judgment as a matter of law.

**IT IS, THEREFORE, ORDERED:**

1. That Summary Judgment is rendered on behalf of the State of Tennessee.
2. That this claim is respectfully dismissed with prejudice.
3. This is a final judgment.

ENTERED this 28 day of August, 2015.



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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This 31<sup>st</sup> of Aug., 2015.

*Paula Merrifield*  
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PAULA MERRIFIELD  
Administrative Clerk  
Tennessee Claims Commission