

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
MIDDLE DIVISION

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CLAIMS COMMISSION
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ROBERT WHIPPLE, III #399615,)
)
 Claimant,) Claim No. T20150055
)
 vs.)
)
 STATE OF TENNESSEE,)
) Regular Docket
 Defendant.)

ORDER GRANTING MOTION TO DISMISS

This is a regular docket claim that came before Robert N. Hibbett, Commissioner and judge of the facts and the law. Claimant is an inmate in the custody of the Tennessee Department of Correction ("TDOC"), currently housed at the Turney Center Industrial Complex in Hickman County, Tennessee. Claimant alleges that, between June 2014 and October 2014, he was charged a total of \$16.65 for printing at a cost of \$0.15 per page. Additionally, Claimant seeks punitive damages in the amount of fifty dollars per charge, plus postage costs and expenses. The claim totals to \$1,371.92. The State has filed a Motion to Dismiss for lack of subject matter jurisdiction and for failure to state a claim upon which relief may be granted. The Claimant has filed a response to the State's

Motion to Dismiss. This Tribunal holds that this case should be dismissed due to lack of subject matter jurisdiction.

Motions to Dismiss for lack of subject matter jurisdiction are governed by Tennessee Rule of Civil Procedure 12.02(1). Subject matter jurisdiction is a court's lawful authority to adjudicate a controversy. *Meighan v. U.S. Sprint Commc'n Co.*, 924 S.W.2d 632, 639 (Tenn. 1996). A court's jurisdiction must be conferred either by the legislature or by the constitution. *Kane v. Kane*, 547 S.W.2d 559, 560 (Tenn. 1977).

The Claims Commission is a court of limited and exclusive jurisdiction, expressly established by the Tennessee General Assembly in Tenn. Code Ann. § 9-8-307(a)(1)(A)-(V). This Tribunal lacks jurisdiction over claims based on the intentional actions of state employees. *See* 9-8-307(d) (stating, "[t]he state will not be liable for willful, malicious, or criminal acts by state employees.").

Additionally, this Tribunal lacks the authority to award punitive damages. *See* 9-8-307(d) (stating, "[t]he state will not be liable for punitive damages.") *See also* *Phillips v. Tennessee Technological University*, 984 S.W.2d 217, 218 (Tenn. 1998).

The TDOC established Administrative Policy and Procedure 208.05, which went into effect on May 15, 2014. *See* "Exhibit A" of State's Memorandum of Law

in Support of Motion to Dismiss. That section stated, in pertinent part, “Inmates shall be charged for the following services: telephone calls, copy machine costs...” This policy was amended by the TDOC, effective date August 15, 2014, to state the following: “Inmates shall be charged for the following services: telephone calls, reproduction and/or duplication of any kind...”

With regards to prison policies, the decisions of prison administrators, such as the TDOC, are given significant deference both in statute and in case law. For example, Tenn. Code Ann. § 4-6-102 states the following:

The management and government of the state penitentiaries for adults are vested in the department of correction. It has all the power necessary for the full and efficient exercise of the executive, administrative, and fiscal supervision over all such institutions, except as otherwise expressly provided.

Similarly, in *Mandela v. Campbell*, 978 S.W.2d 531 (Tenn. 1998), the Tennessee Supreme Court stated:

The legislature has provided the TDOC considerable deference and broad discretionary powers to enable the TDOC to manage its tremendous responsibilities. [...] This broad grant of legislative discretion necessarily includes the power to establish policies and procedures for handling disciplinary matters. This broad grant of discretion also envisions that those persons intimately involved with the intricacies of the prison system and not the voting public are best equipped to establish policies and procedures for inmate discipline.

Additionally, the United States Supreme Court has been similarly deferential to the decisions of prison administrators with regard to internal policies and practices. *See Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119, 129 (1977); *Bell v. Wolfish*, 441 U.S. 520, 548 (1979) (stating, "[J]udicial deference is accorded not merely because the administrator ordinarily will, as a matter of fact in a particular case, have a better grasp of his domain than the reviewing judge, but also because the operation of our correctional facilities is peculiarly the province of the Legislative and Executive Branches of our Government, not the Judicial.").

This Tribunal finds that Policy 208.05 is well within the authority of the TDOC. Regardless of whether an original is being printed or a copy of an original is being made, the State is expending resources in the form of ink, paper, and wear on the printer. It is reasonable to require that inmates reimburse the state for those expenses. In other words, printers and paper are not free and someone must bear the cost. Therefore, since the TDOC directive at issue in this case is grounded upon a reasonable basis and is applied uniformly throughout the corrections system, the directive constitutes lawful intentional actions of the state and its employees. The directive does not embody or protect any negligence

in its wording. The Tribunal cannot find any basis to exercise jurisdiction under any provision of Tenn. Code Ann. 9-8-307(a)(1)(A)-(V). Additionally, the Claims commission is statutorily prohibited from awarding punitive damages; therefore, Claimant's request for punitive damages will not, and cannot, be awarded. The other arguments made in the State's Motion to Dismiss are rendered moot.

IT IS, THEREFORE, ORDERED:

That this claim is respectfully dismissed with prejudice.

ENTERED this 19 day of June, 2015.

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

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 22 day of June, 2015.

Paula Merrifield

PAULA MERRIFIELD
Administrative Clerk
Tennessee Claims Commission