

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs November 3, 2015

BRETT PATTERSON v. STATE OF TENNESSEE

**Appeal from the Claims Commission for the Middle Grand Division
No. I20130663 Robert N. Hibbett, Commissioner**

No. M2014-02477-COA-R3-CV – Filed February 3, 2016

The State of Tennessee (“the State”) appeals the decision of the Tennessee Claims Commission (“the Claims Commission”) awarding Brett Patterson (“Patterson”) \$439.10 for arts-and-crafts supplies that Patterson was required either to mail out of the prison or donate pursuant to a policy of the Turney Center Industrial Complex (“Turney Center”) where Patterson is an inmate. We find and hold that the Claims Commission does not have jurisdiction over intentional torts, and as no negligence was alleged or shown, the Claims Commission lacked jurisdiction over this case. We, therefore, vacate the decision of the Claims Commission and dismiss this case.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Claims Commission
Vacated; Case Dismissed**

D. MICHAEL SWINEY, C.J., delivered the opinion of the court, in which RICHARD H. DINKINS and ARNOLD B. GOLDIN, JJ. joined.

Herbert H. Slatery, III, Attorney General and Reporter; Andrée S. Blumstein, Solicitor General; and Eric A. Fuller, Assistant Attorney General, for the appellant, the State of Tennessee.

Brett Patterson, Only, Tennessee, pro se appellee.

OPINION

Background

Patterson is an inmate in the custody of the Tennessee Department of Correction. Patterson was transferred in December of 2011 from the West Tennessee State Penitentiary in Henning, Tennessee to the Turney Center in Only, Tennessee. Turney Center had a policy (“the Policy”), implemented approximately one month prior to Patterson’s transfer, banning arts-and-crafts supplies in individual cells. The Policy provided that surrendered arts-and-crafts supplies would be held for thirty days after which the inmate was required either to make arrangements to mail the supplies out of the prison or donate them to charity. Under the Policy, if the inmate had not made arrangements after thirty days, the supplies would be disposed of by Turney Center.

When he arrived at Turney Center, Patterson was required to surrender his arts-and-crafts supplies which consisted of items including colored pencils, art paper, and paintbrushes. Patterson filed a series of grievances with regard to the Policy. Despite the thirty-day requirement, prison staff held Patterson’s arts-and-crafts supplies for approximately four months to allow Patterson time to exhaust the grievance process. After exhausting the grievance process with no success, Patterson elected to mail his arts-and-crafts supplies to someone out of the prison. Approximately six months after the Policy had been implemented and after Patterson had mailed his arts-and-crafts supplies out of the prison, the Policy was amended to allow inmates to possess up to twelve colored pencils, art paper, and erasers in individual cells. Under prison policy Patterson’s arts-and-crafts supplies could not be mailed back to him in the prison as such supplies were required to be received directly from the manufacturer for security reasons.

Patterson filed a claim with the Division of Claims Administration seeking \$594.48 in compensation for the arts-and-crafts supplies he had been forced to surrender plus postage. The Division of Claims Administration denied the claim finding that there was no evidence of negligence on the part of the prison officials.

Patterson appealed to the Claims Commission. The Claims Commission issued its judgment on June 11, 2014 finding in Patterson’s favor and awarding Patterson \$439.10, which was 75% of the value of Patterson’s arts-and-crafts supplies. The State sought *en banc* review, but was denied. The State then appealed to this Court.

Discussion

Although not stated exactly as such, the State raises one issue on appeal: whether the Claims Commission lacked jurisdiction to hear Patterson’s claim, which alleged

intentional rather than negligent acts. In his brief on appeal, Patterson addresses the merits of his underlying claim, which was decided by the Claims Commission, but does not address the State's argument that the Claims Commission lacked jurisdiction to hear Patterson's claim. Jurisdiction, however, is a threshold issue as our Supreme Court explained in *Johnson v. Hopkins*, stating:

Subject matter jurisdiction involves the court's lawful authority to adjudicate a controversy brought before it. *Chapman v. DaVita, Inc.*, 380 S.W.3d 710, 712 (Tenn. 2012); *Meighan v. U.S. Sprint Commc'ns Co.*, 924 S.W.2d 632, 639 (Tenn. 1996). Subject matter jurisdiction is conferred by statute or the Tennessee Constitution; the parties cannot confer it by appearance, plea, consent, silence, or waiver. *In re Estate of Trigg*, 368 S.W.3d 483, 489 (Tenn. 2012). Any order entered by a court lacking jurisdiction over the subject matter is void. *Id.* Therefore, subject matter jurisdiction is a threshold inquiry, which may be raised at any time in any court. *Id.*

Johnson v. Hopkins, 432 S.W.3d 840, 843-44 (Tenn. 2013).

Specifically with regard to the jurisdiction of the Claims Commission, our Supreme Court has instructed:

It is a well-settled principle of constitutional and statutory law in this state that "[t]he State of Tennessee, as a sovereign, is immune from suit except as it consents to be sued." *Brewington v. Brewington*, 215 Tenn. 475, 480, 387 S.W.2d 777, 779 (1965). This doctrine of sovereign immunity "has been a part of the common law of Tennessee for more than a century and [it] provides that suit may not be brought against a governmental entity unless that governmental entity has consented to be sued." *Hawks v. City of Westmoreland*, 960 S.W.2d 10, 14 (Tenn. 1997). Despite this general grant of immunity, however, the courts of this state have frequently recognized that the Tennessee Constitution has modified this rule of absolute sovereign immunity by providing that "[s]uits may be brought against the State in such manner and in such courts as the Legislature may by law direct." Tenn. Const. art. I, § 17; *see also Kirby v. Macon County*, 892 S.W.2d 403, 406 (Tenn. 1994).

Pursuant to its constitutional power to provide for suits against the state, the legislature created the Tennessee Claims Commission in 1984 to hear and adjudicate certain monetary claims against the State of Tennessee. *See* Tenn. Code Ann. §§ 9-8-301 to 307 (1999). While the Claims

Commission has exclusive jurisdiction to hear claims arising against the state, *cf.* Tenn. Code Ann. § 20–13–102(a) (1994), this jurisdiction is limited only to those claims specified in Tennessee Code Annotated section 9–8–307(a). 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. *Cf. Hill v. Beeler*, 199 Tenn. 325, 329, 286 S.W.2d 868, 869 (1956) (stating that “except as the Legislature of the State consents there is no jurisdiction in this Board of Claims to entertain suits against the State”).

* * *

[I]n 1985, the General Assembly amended section 9–8–307(a) to express its intention as to the jurisdictional reach of the Claims Commission: “It is the intent of the general assembly that the jurisdiction of the claims commission be liberally construed to implement the remedial purposes of this legislation.” Tenn. Code Ann. § 9–8–307(a)(3).

Hence, although we have traditionally given a strict construction to the scope of the Commission’s jurisdiction, we also recognize that our primary goal in interpreting statutes is “to ascertain and give effect to the intention and purpose of the legislature.” *Gleaves v. Checker Cab Transit Corp., Inc.*, 15 S.W.3d 799, 802 (Tenn. 2000) (citing *Carson Creek Vacation Resorts, Inc. v. State Dep’t of Revenue*, 865 S.W.2d 1, 2 (Tenn. 1993)). If the legislature intends that its statutes waiving sovereign immunity are to “be liberally construed,” then the courts should generally defer to this expressed intention in cases where the statutory language legitimately admits of various interpretations. A policy of liberal construction of statutes, however, only requires this Court to give “the most favorable view in support of the petitioner’s claim,” *Brady v. Reed*, 186 Tenn. 556, 563, 212 S.W.2d 378, 381 (1948), and such a policy “does not authorize the amendment, alteration or extension of its provisions beyond [the statute’s] obvious meaning.” *Pollard v. Knox County*, 886 S.W.2d 759, 760 (Tenn. 1994). Moreover, “[w]here a right of action is dependent upon the provisions of a statute . . . we are not privileged to create such a right under the guise of a liberal interpretation of it.” *Hamby v. McDaniel*, 559 S.W.2d 774, 777 (Tenn. 1977).

Accordingly, when deciding whether a claim is within the proper statutory scope of the Commission’s jurisdiction to hear and decide claims against the State of Tennessee, we will give a liberal construction in favor

of jurisdiction, but only so long as (1) the particular grant of jurisdiction is ambiguous and admits of several constructions, and (2) the “most favorable view in support of the petitioner’s claim” is not clearly contrary to the statutory language used by the General Assembly. *Cf. Northland Ins. Co. v. State*, 33 S.W.3d 727, 730 (Tenn. 2000) (“The statute’s liberal construction mandate allows courts to more broadly and expansively interpret the concepts and provisions within its text.”). Furthermore, because issues of statutory construction are questions of law, *see Wakefield v. Crawley*, 6 S.W.3d 442, 445 (Tenn.1999); *Jordan v. Baptist Three Rivers Hosp.*, 984 S.W.2d 593, 599 (Tenn. 1999), we review the issues involving the jurisdiction of the Claims Commission *de novo* without any presumption that the legal determinations of the commissioner were correct. *See Northland Ins. Co.*, 33 S.W.3d at 729; *Ardis Mobile Home Park v. State*, 910 S.W.2d 863, 865 (Tenn. Ct. App.1995).

Stewart v. State, 33 S.W.3d 785, 790-91 (Tenn. 2000) (footnote omitted).

The Claims Commission asserted jurisdiction over the case now before us pursuant to Tenn. Code Ann. § 9-8-307(a)(1)(F), which provides:

9-8-307. Jurisdiction – Claims – Waiver of actions – Standard for tort liability – Damages – Immunities – Definitions – Transfer of claims.

(a)(1) 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, falling within one (1) or more of the following categories:

* * *

(F) Negligent care, custody or control of personal property;

Tenn. Code Ann. § 9-8-307(a)(1)(F) (2012). The Claims Commission, however, “does not have jurisdiction over any intentional torts.” *Shell v. State*, 893 S.W.2d 416, 421 (Tenn. 1995).

A careful and thorough review of the record on appeal reveals that Patterson’s claim alleged only intentional acts by state employees, not negligent ones. Specifically, Patterson alleged that the prison officials were ‘negligent’ when they implemented the Policy, forced Patterson to surrender his arts-and-crafts supplies, and forced Patterson to make the decision to mail his arts-and-crafts supplies out of the prison. These acts,

however, were intentional acts, and cannot be considered to be ‘negligent’ in nature. Patterson’s claim does not allege any actions that could be considered to be negligent care, custody, or control of his arts-and-crafts supplies. We also note that no negligence was proven in this case, only intentional acts by state employees. Our General Assembly has the power to remove immunity for intentional acts of state employees, but it has chosen not to do so. As Patterson’s claims were for intentional acts, and the proof showed only intentional acts, not negligent ones, the Claims Commission lacked jurisdiction to hear Patterson’s claim, rendering its judgment void. We, therefore, vacate the judgment of the Claims Commission and dismiss this case.

Conclusion

The judgment of the Claims Commission is vacated and this cause is dismissed. The costs on appeal are assessed against the appellee, Brett Patterson.

D. MICHAEL SWINEY, CHIEF JUDGE