

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE  
MIDDLE DIVISION

TREMAYNE PITTS, )  
)  
Claimant, )  
)  
vs. )  
)  
STATE OF TENNESSEE, )  
)  
Defendant. )

Claim No. T20090111

**FILED**  
JAN 08 2009  
Tennessee Claims Commission  
CLERK'S OFFICE

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**ORDER OF DISMISSAL**

This claim is before the Commission on the defendant's motion to dismiss. Claimant has not responded to the motion. The claimant, Tremayne Pitts, is an inmate in the custody of the Tennessee Department of Correction (TDOC). Mr. Pitts alleges that he has not been awarded jail credits to which he is entitled. As relief, he seeks \$90,500.00 in damages. The State has moved for dismissal, arguing that Mr. Pitts has not exhausted his administrative remedies available under the Uniform Administrative Procedures Act (UAPA).

The Department of Correction is the agency responsible for calculating inmate sentences in accordance with the sentencing court's judgment and with applicable sentencing statutes. *Bonner v. Tennessee*

*Dept. of Correction*, 84 S.W.3d 576, 582 (Tenn.Ct.App. 2001). Judicial review of Tennessee Department of Correction's calculation of an inmate's sentence may be obtained under the Uniform Administrative Procedures Act, Tenn. Code. Ann. § 4-5-101, *et seq.* *Bonner v. Tennessee Dept. of Correction*, 84 S.W. at 583. Although Mr. Pitts argues that he has not received sentence credits due him, he does not allege that he has successfully challenged the Department of Correction's calculation of his credits and sentences under the Uniform Administrative Procedures Act, Tenn. Code. Ann. § 4-5-101, *et seq.*

In *Heck v. Humphrey*, 512 U.S. 477, 486-87, 114 S.Ct. 2364, 2373, 129 L.Ed.2d 383 (1994), the Supreme Court held that

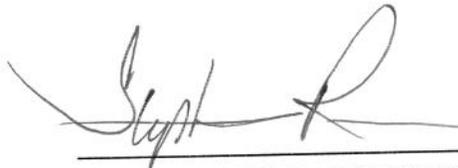
in order to recover damages for an unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. *Id.*

More recently, the holding in *Heck* has been held to bar inmate claims under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671 *et seq.*, for money damages arising from the negligent calculation of a prisoner's

release date or otherwise wrongfully imprisoning the prisoner. *See Erlin v. United States*, 364 F.3d 1127, 1133 (9<sup>th</sup> Cir. 2004). The Commission finds that this rationale applies equally in the instant case to the extent that claimant seeks damages based on the failure to properly credit him with jail time on his sentence.

Because the complaint does not reflect that Pitts has successfully challenged the Department of Correction's alleged failure to credit him with jail credits in its calculation of his sentences based on the sentencing court's judgment and the applicable sentencing statutes under the Uniform Administrative Procedures Act, Tenn. Code § 4-5-224, the Commission concludes that the defendant's motion should be granted and the claim for damages dismissed.

It is so **ORDERED** this the 7<sup>th</sup> day of January 2009.



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STEPHANIE R. REEVERS  
Claims Commissioner

**CERTIFICATE OF SERVICE**

This is to certify that I have mailed a true and correct copy of the foregoing document to the following parties:

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This 8 of Jan, 2009.



Marsha Richeson, Administrative Clerk  
Tennessee Claims Commission