

IN THE CLAIMS COMMISSION OF THE STATE OF TENNESSEE
WESTERN DIVISION

FILED
TN CLAIMS COMMISSION
CLERK'S OFFICE

SANTEIBAL BUCHANAN,

2016 MAR 10 A 10:16

Claimants

CLAIM NO. T20151733
~~Workers' Compensation~~

STATE OF TENNESSEE,
Defendant

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

This matter came before the Tennessee Claims Commission, Western Division, on Claimant's Complaint, the State's Motion to Dismiss pursuant to Rule 12.02(1), Tennessee Rules of Civil Procedure, for lack of subject matter jurisdiction, memorandum in support thereof and the entire record in this cause.

Claimant filed a claim for damages with the State of Tennessee Division of Claims on March 17, 2015. Attached to the Claim for Damages was a state warrant dated May 2, 1995, wherein it is alleged Claimant, Santeibal Buchanan, along with others, entered the premises at 217 First Street in Madison County, Tennessee, whereupon an altercation occurred. As a result of the incident a warrant for aggravated assault was issued against Santeibal Buchanan. A preliminary hearing was waived and the matter submitted to the grand jury for Madison County, Tennessee. Although the record is not complete it appears a no true bill was returned by the grand jury on July 31, 1995. Many years later, Claimant sought to have her charge of aggravated assault expunged from her record. An Order for the Expungement of Criminal Offender Record was

approved by the Attorney General and Circuit Court Judge for Madison County, Tennessee, on August 12, 2014.

Claimant then submitted a Claim for Damages on March 17, 2015, alleging her rights had been violated due to wrongful allegations of a crime which she claims she did not commit. Claimant now sues the State of Tennessee for the sum of Two Hundred Thousand and No/100 Dollars (\$200,000.00).

Defendant has filed a Motion to Dismiss for lack of subject matter jurisdiction because Claimant's allegations do not fall within the jurisdictional categories of Claims Commission as enumerated Tenn. Code Ann. §9-8-307(a)(1)(A)-(W). Claimant has not filed a response to Defendant's Motion to Dismiss.

The State of Tennessee being a sovereign entity is immune from suit except as it consents to be sued. *Brewington v. Brewington*, 215 Tenn. 475, 387 S.W. 2d 777 (1965). The Constitution of the State of Tennessee provides, in part, that "[s]uits brought against the State in such a manner and in such courts as the Legislature may by the law direct." Tenn. Const. Art. I, Section 17. Art. I, Section 17 has been interpreted as a grant of sovereign immunity to the State, therefore, no suit can be maintained against the State unless expressly authorized by the Legislature. The Tennessee Legislature has also provided that no court in the State shall have any power, jurisdiction, or authority to entertain any damages against the State. Tenn. Code Ann. §20-13-102(a) provides, in part:

No court in the state shall have any power, jurisdiction, or authority to entertain any suit against the state, or against any officer of the state acting by authority of the state, with a view to reach the state,

its treasury funds, or property, and all such suits shall be dismissed as to the state or such officers, on motion, plea, or demurrer of the law officer of the state, or counsel employed by the state.

These constitutional and statutory provisions state the principle that a state cannot be sued in its own courts without its consent. An exception to the general rule of sovereign immunity has, however, been adopted by the Tennessee Legislature. The Tennessee Legislature has authorized that certain specific actions may be brought against the State of Tennessee in the Claims Commission. Specifically, Tenn. Code Ann. §9-8-307(a) 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, falling within one (1) or more of the following categories...

In order to maintain a claim against the state Claimant must show acts or omissions on the part of "state employees" and that such act or omission falls within the specific causes of action that delineated in T. C. A. §9-8-307(a)(1)(A)-(W).

The file does not contain any allegation against a state employee which would be actionable. The record indicates that in 1995 Claimant was charged with aggravated assault. Claimant waived her right to a preliminary hearing in the General Sessions Court for Madison County, Tennessee, and the matter was submitted to a grand jury sitting in Madison County, Tennessee. The grand jury chose not to indict Claimant by returning a no true bill on July 31, 1995. Claimant asserts her criminal record should have been expunged and the failure to expunge the criminal record may have prevented her from being hired for a

position she was seeking. Claimant could have had her criminal record expunged soon after the no true bill was returned but chose not to do so until 2014. Furthermore, the Commission lacks subject matter jurisdiction under Tenn. Code Ann. §9-8-307(a).

The Commission **FINDS**, based upon the record, no act or omission was committed by a state employee. Furthermore, the Commission lacks subject matter jurisdiction, therefore, Defendant's Motion to Dismiss should be granted.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Defendant's Motion to Dismiss is **GRANTED** and Claimant's claim is hereby **DISMISSED**.



A handwritten signature in black ink, appearing to read 'J. Hamilton III', is written over a horizontal line. Below the line, the name and title are printed in a bold, sans-serif font.

JAMES A. HAMILTON III
COMMISSIONER

CERTIFICATE OF SERVICE

I certify that a true and exact copy of the foregoing Order has been mailed by U.S. first class mail, postage prepaid, electronically transmitted, or hand-delivered to:

Santeibal Buchanan
11 Caruthers Drive
Jackson, TN 38301

Laura Miller, Esq.
Assistant Attorney General
Office of the Attorney General
P. O. Box 20207
Nashville, Tennessee 37202

on this the 10th day of March, 2016.

Paula Merrifield

**PAULA MERRIFIELD, CLERK
TENNESSEE CLAIMS COMMISSION**