Sean Buchan planned this whole thing he never had any intention of ever going to Federal Court for My Denial of books Legal books. if he wanted to go to Federal court he would have filed the complaint as a Section 1983 like it have been. should he knew what he DID for his "200,000 pay off and he never responed to the motion to the dismiss from the odrc he DID nothing and just let it get dismissed

also I never recieved any notice of any Dissmissals or motions of dissmissals from ODRC

also he was leaving the case open with the "Denial of books" excuse just so he could get a ~~Self~~ second Dissmissal and every thing Dissmissed with prejudice (so I could never file the same Claims of abuse ever again) so ID never have a chance

see ATTACHMENT D (1)

also The mail room
at Dayton Correctional
~~Here~~ hid my Dissmissals
from me so I would
never know what
was happening
behind my back.
Buchanan and his
para legals
Mel Hunter
miss and
Sandy Zdekar
miss

hid this and
knew odrc and
Buchanan never wanted
me to learn about civil
law because then
I would figure it
out what they did

but I did
find out with the
"help" of mr Hill
a % at ORW,
and the "inmate law
library clerks and
Librian miss Kuhn
who looked up this case
on the internet and
printed every thing
out for me.
and I never knew every thing
was dismissed
behind my back
because of Buchanan
and the staff
at ORW and DCI
hid it from me
See attachment D (1)

Never recieved

ATTACH D(1)

IN THE COURT OF CLAIMS OF OHIO

2020 DEC 14 PM 3:05 COURT OF CLAIMS OF OHIO

TERRI GARKO Plaintiff v. OHIO DEPARTMENT OF REHABILITATION AND CORRECTION Defendant	Case No. 2020-00369JD Judge Dale A. Crawford Magistrate Holly True Shaver ENTRY OF PARTIAL DISMISSAL

On July 13, 2020, defendant filed a motion to dismiss plaintiff's complaint, in part, pursuant to Civ.R. 12(B)(1), lack of jurisdiction over the subject matter, and 12(B)(6), failure to state a claim upon which relief can be granted. Plaintiff did not file a response. For the reasons discussed below, defendant's motion shall be granted.

I Seen he never responded JUST let IT get DISSMISSED

Standard of Review

When deciding a motion to dismiss based on lack of subject-matter jurisdiction, the court must determine "whether any cause of action cognizable by the forum has been raised in the complaint." *State ex rel. Bush v. Spurlock*, 42 Ohio St.3d 77, 80, 537 N.E.2d 641 (1989). In construing a motion to dismiss pursuant to Civ.R. 12(B)(6), the court must presume that all factual allegations of the complaint are true and make all reasonable inferences in favor of the non-moving party. *Mitchell v. Lawson Milk Co.*, 40 Ohio St.3d 190, 532 N.E.2d 753 (1988). Then, before the court may dismiss the complaint, it must appear beyond doubt that plaintiff can prove no set of facts entitling her to recovery. *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242, 327 N.E.2d 753 (1975).

JOURNALIZED

Sean Buchan filed complaint

Factual Background

According to her complaint, plaintiff is an inmate in the custody and control of defendant at Dayton Correctional Institution. Complaint, ¶ 2. In 2017, plaintiff was housed at the Ohio Reformatory for Women (ORW). *Id.*, ¶ 6. Plaintiff asserts that while she was housed at ORW, she was physically and sexually abused by corrections officers. *Id.*, ¶ 7-8. Plaintiff asserts that she was placed under various security restrictions in retaliation for her use of the grievance procedure about the abuse she sustained. *Id.*, ¶ 10. In June 2019, plaintiff was diagnosed with a traumatic eye injury, and eventually lost vision in one eye. *Id.*, ¶ 13, 17. Plaintiff asserts that the eye injury and permanent loss of vision were caused by physical abuse by defendant's employees. *Id.*, ¶ 15. Plaintiff also alleges that throughout her incarceration, she has been denied mail and various publications in violation of her constitutional rights. *Id.*, ¶ 20. Plaintiff asserts that the "denial of publications and books violated Article 1, Section 11 of the Constitution of the State of Ohio and the First Amendment to the Constitution of the United States of America." *Id.*, ¶ 25. Plaintiff asserts claims of cruel and unusual punishment under the Fourth, Eighth, and Fourteenth Amendments; claims of First Amendment violations for denying her books and publications, and; claims under 42 U.S.C. 1983 et seq. *Id.*, ¶ 27-29. Plaintiff also seeks punitive damages. *Id.*, page 4.

never said I sexually abused

NO. the eye injury was caused by Deliberate indifference to my serious medical needs

Sean lied

My Legal books were never to me given

no punitive Damages in Court of claims

Law and Analysis

Inmate claims regarding retaliation are treated as constitutional claims under 42 U.S.C. 1983. *Deavors v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 98AP-1105, 1999 Ohio App. LEXIS 2338 (May 20, 1999). Claims regarding access to the institutional grievance system are treated as challenges to the conditions of confinement arising under 42 U.S.C. 1983. *State ex rel. Carter v. Schotten*, 70 Ohio St.3d 89, 91 (1994). A claim for cruel and unusual punishment is construed as alleging a violation of Eighth Amendment rights. *Hiles v. Franklin County Bd. of Commissioners,*

10th Dist. Franklin No. 05AP-253, 2006-Ohio-16, ¶ 22. It is well-settled that such claims are not actionable in the Court of Claims. *Young v. State*, 10th Dist. Franklin No. 17AP-272, 2018-Ohio-2604, 116 N.E.3d 781, ¶ 49 ("At the outset, we note this court has consistently held that the Court of Claims does not have jurisdiction over actions brought pursuant to 42 U.S.C. 1983."). Accordingly, plaintiff's constitutional claims and challenges to the conditions of confinement must be dismissed for lack of subject-matter jurisdiction. In addition, plaintiff seeks punitive damages. However, punitive damages are not recoverable in the Court of Claims. *See Drain v. Kosydar*, 54 Ohio St.2d 49 (1978).

Conclusion

Based on the foregoing, defendant's motion to dismiss plaintiff's state and federal constitutional claims, and her claim for punitive damages is GRANTED. Plaintiff's claims regarding violations of constitutional rights and conditions of confinement are DISMISSED pursuant to Civ.R. 12(B)(1). Plaintiff's claim for punitive damages is DISMISSED pursuant to Civ.R. 12(B)(6). Plaintiff's other claims remain for trial.

The main issues were never going to Trial

DALE A. CRAWFORD
Judge

cc:

Jeanna V Jacobus
Lauren D Emery
Assistant Attorneys General
150 East Gay Street 18th Floor
Columbus OH 43215-3130

Sean C Buchanan
One Cascade Plaza Suite 2210
Akron OH 44308

002

JOURNALIZED