

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE

Assigned on Briefs March 1, 2016

RICKY FLAMINGO BROWN, SR. v. STATE OF TENNESSEE

Appeal from the Tennessee Claims Commission
No. T20141406 Robert N. Hibbett, Claims Commissioner

No. M2015-00415-COA-R3-CV – Filed May 31, 2016

Inmate appeals the dismissal of his claim that funds awarded to him as a result of a claim he filed with the Tennessee Claims Commission were incorrectly applied to his overdrawn inmate trust account. Finding that the application of the funds in this manner did not violate the pertinent statutes, we affirm the judgment of the Commission.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Tennessee Claims
Commission Affirmed**

RICHARD H. DINKINS, J., delivered the opinion of the court, in which D. MICHAEL SWINEY, C.J., and BRANDON O. GIBSON, J., joined.

Ricky Flamingo Brown, Sr., Whiteville, Tennessee, Pro Se, appellant.

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

MEMORANDUM OPINION¹

Ricky Flamingo Brown, Sr., an inmate in the custody of the Tennessee Department of Correction who, at the time of the events giving rise to this appeal was housed at Turney Center Industrial Complex, appeals the order of the Tennessee Claims Commission (“the

¹ Tenn. R. Ct. App. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

Commission”) dismissing the claim he filed seeking to recover funds which had been awarded to him by the Commission and applied to his overdrawn inmate trust account rather than delivered to a family member as he had requested.

The pertinent facts are succinctly set forth in the order granting the State’s motion for summary judgment and are not disputed:

The Claimant was awarded a judgment by the Middle Division, Tennessee Claims Commission, in the amount of \$726.95 filed on June 20, 2013. The check, based on the judgment, was intercepted and sent directly to the Central Trust Fund Administration (CFTA). The Claimant had made it clear that he wanted the check delivered to a family member. The check was credited to the Claimant’s overdrawn inmate trust account that is administered by CFTA.

Mr. Brown does not contest that he had a negative balance of \$1,048.46 in his trust account when the judgment was awarded and the check issued; he argues that Tenn. Code Ann. § 41-21-902(1)(C) prevents the funds being applied to the negative balance in his account. We respectfully disagree.

The Inmate Responsibility Act of 1998 is codified at Tenn. Code Ann. §§ 41-21-901-911; section 41-21-902(1)(C) defines “assets” as the term is used in the act thusly:

“Assets” means property, tangible or intangible, real or personal, belonging to or due an inmate or former inmate, including income or payments to the inmate from social security, workers’ compensation, veteran’s compensation, pension benefits, previously earned salary or wages, bonuses, annuities, retirement benefits, insurance benefits or from any other source whatsoever, but does not include any of the following:

* * *

(C) A money judgment received by the inmate from the state as the result of a civil action in which the department was a named defendant and found to be liable[.]

With respect to the assets as so defined, Tenn. Code Ann. § 41-21-905(b) states:

If the department, upon completing the investigation, has good cause to believe that an inmate has sufficient assets to recover not less than ten percent (10%) of the estimated cost of the inmate for two (2) years or ten percent (10%) of the cost of care of the inmate, whichever is less, the commissioner shall forward reports concerning those inmates to the attorney general and reporter for appropriate action. The attorney general and reporter shall seek to secure

reimbursement for the expense to the state of Tennessee for the cost of care of that inmate.

While Mr. Brown correctly argues that the funds he received cannot be used to pay the costs of his incarceration, his argument is not well-taken because the funds were not used to pay the costs of his incarceration but, rather, were applied to an overdrawn balance in his account. The application of the funds in this manner does not violate the statute.

In applying the funds to his account, the State was complying with Tenn. Code Ann. § 9-4-604, which prohibits the State from paying money to someone who owes the State.² The record shows that Mr. Brown acknowledges the overdrawn balance and that the funds were fully applied to that balance and not used in any manner to pay the costs of his incarceration.

Accordingly, the judgment of the Claims Commission is affirmed.

RICHARD H. DINKINS, JUDGE

² Tenn. Code Ann. § 9-4-604 states:

No person shall draw any money from the public treasury until all debts, dues, and demands owing by such person to the state are first liquidated and paid off. The commissioner of finance and administration shall not issue any warrant upon the treasury in favor of a person in default until all of such person's arrearages to the treasury are audited and paid, otherwise than by allowing such defaulter or delinquent credits on the amounts of such person's delinquencies for such sum or sums as may at any time be due and owing to such person from the treasury. Notwithstanding the provisions of this section to the contrary, the commissioner may issue such a warrant upon the commissioner's determination that refusing to issue such a warrant would result in an interruption of essential services.