

STATE OF MICHIGAN
COURT OF APPEALS

FABIAN ALLEN

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

UNPUBLISHED
October 25, 1996

No. 187748
LC No. 95-001599-CZ

Before: Gribbs, P.J., and MacKenzie and Griffin, JJ.

PER CURIAM.

Plaintiff appeals as of right from an order granting summary disposition to defendant¹ pursuant to MCR 2.116(C)(8). We affirm.

In 1994, plaintiff, an inmate at a level II correctional facility, was stabbed by an unknown assailant. Plaintiff was subsequently transferred to a level III correctional facility. Plaintiff claims that he was later reevaluated and retransferred to a level II facility. Prior to his second transfer, plaintiff claims that he was, once again, stabbed by an unknown assailant.

Plaintiff filed suit, alleging improper inmate supervision, negligent failure to protect plaintiff's safety, and negligent placement at an improper security level, all of which allegedly caused or contributed to the second stabbing. Plaintiff seeks release from prison and financial compensation for his pain and suffering.

Defendant moved for summary disposition pursuant to MCR 2.116(C)(4), claiming that because plaintiff was requesting both equitable and monetary relief from the state, jurisdiction was proper only in the Court of Claims, *Silverman v Univ of Michigan Bd of Regents*, 445 Mich 209, 217; 516 NW2d 54 (1994). In lieu of an answer, plaintiff filed a motion in the circuit court to transfer the case to the Court of Claims. The trial court did not transfer the case but, instead, granted summary disposition in favor of defendant pursuant to MCR 2.116(C)(8) on the ground that plaintiff's complaint sought mandamus relief and, as such, failed to state a claim on which relief could be granted.

Plaintiff claims that summary disposition was improperly granted pursuant to MCR 2.116(C)(8). Even if we were to agree, the error does not require reversal because summary disposition was the correct result. See *People v Lucas*, 188 Mich App 554, 577; 470 NW2d 460 (1991); *People v Beckley*, 161 Mich App 120, 131; 409 NW2d 759 (1987), aff'd 434 Mich 691; 456 NW2d 391 (1990). In the present case, plaintiff seeks money damages and equitable relief from the state. Therefore, the case can be brought only in the Court of Claims. *Silverman, supra* at 217. Where, as here, the circuit court lacks subject-matter jurisdiction, it has no authority to adjudicate the matter and "is powerless to do more than dismiss the action." *Eaton Co Bd of Rd Comm'rs v Schultz*, 205 Mich App 371, n 2; 521 NW2d 847 (1994); see *Altman v Nelson*, 197 Mich App 467, 472; 495 NW2d 826 (1993). Because we conclude that the circuit court did not abuse its discretion in failing to transfer the case to the Court of Claims pursuant to MCR 2.227, see generally 2 Martin, Dean & Webster, Michigan Court Rules Practice (3d ed), pp 143-145, summary disposition was appropriate under MCR 2.116(C)(4).

In view of our resolution of this issue, we need not address plaintiff's remaining issues on appeal.

Affirmed.

/s/ Roman S. Gribbs
/s/ Barbara B. MacKenzie
/s/ Richard Allen Griffin

¹ Plaintiff's complaint also listed as defendants Warden Martin Makel, Warden Pat Caruso, and Director Kenneth McGinnis.