

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PRISON LEGAL SERVICES OF MICHIGAN,  
INC.,

UNPUBLISHED  
January 31, 1997

Plaintiff-Appellant,

v

No. 190259  
Ingham Circuit Court  
LC No. 95-079427

STATE OF MICHIGAN, DEPARTMENT OF  
MANAGEMENT AND BUDGET, DEPARTMENT  
OF CORRECTIONS, WOMEN'S LEGAL  
SERVICES, P.C., and STEVE RAMEY,

Defendants-Appellees.

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Before: McDonald, P.J., and Murphy and J.D. Payant,\* JJ.

PER CURIAM.

Plaintiff appeals as of right the trial court's grant of summary disposition in favor of defendants. We affirm.

Because the parties are aware of the elaborate background behind this litigation, we will not go into great detail. Plaintiff had contracted with defendant Department of Corrections to provide legal assistance to Michigan's women prisoners. The contract was set to expire in February 1995. In May 1994, defendant Department of Corrections began soliciting bids for the contract. Plaintiff submitted a bid, but because it was submitted late, it was not considered. The contract was awarded to defendant Women's Legal Services. Plaintiff filed this action pursuant to MCR 2.201(B)(4). In its complaint, plaintiff sets forth two counts. The first count claims that defendants improperly circumvented the bidding process by giving preferential treatment to defendant Women's Legal Services. The second count alleged that the contract between the state and Women's Legal Services amounts to an illegal expenditure of state funds because the contract is in violation of the Michigan correctional industries act, MCL 800.321 *et seq.*; MSA 28.1540(1) *et seq.*

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Defendants moved for summary disposition. The trial court granted the motion, ruling that plaintiff was not a proper party to bring the action under MCR 2.201(B)(4), and that plaintiff had failed to show any injury resulting from the state's contract with Women's Legal Services. On appeal, we are also of the opinion that plaintiff can not maintain this action.

First, plaintiff lacks standing to challenge the bidding process. Plaintiff submitted a bid to obtain the contract that was awarded to Women's Legal Services. Under Michigan law, a disappointed bidder to a government contract has no standing to challenge the award of the contract to a party who allegedly did not conform to the specifications of the bidding process. *Detroit v Wayne Circuit Judge*, 128 Mich 438, 438-439; 87 NW 376 (1901). The rationale behind this principle is that the restrictions placed on the process of soliciting government contracts are not intended to protect the bidders, but are designed to protect the taxpaying public. See *Rayford v Detroit*, 132 Mich App 248, 256-257; 347 NW2d 210 (1984). See also *City Communications, Inc v Detroit*, 650 F Supp 1570, 1581 (ED Mich 1981). Therefore, plaintiff is not a proper party to challenge the bidding process.

Plaintiff is also not a proper party to bring an action to prevent the illegal expenditure of funds. Plaintiff instituted this action pursuant to MCR 2.201(B)(4) that states, in part, that "an action to prevent the illegal expenditure of state funds" may be brought "in the name of a domestic nonprofit corporation organized for civic, protective, or improvement purposes."

*House Speaker v Governor*, 443 Mich 560, 572-573; 506 NW2d 190 (1993) and *Michigan Soft Drink Ass'n v Dep't of Treasury*, 206 Mich App 392, 399-401; 522 NW2d 643 (1994) interpret MCR 2.201(B)(4) as conferring standing on plaintiffs who meet the requirements of the rule. Compare *Highland Recreation Defense Foundation v Natural Resources Comm*, 180 Mich App 324, 327-328; 446 NW2d 898 (1989). In *House Speaker*, *supra* at 572-573, the plaintiffs were described as follows:

The [Michigan Environmental Protection Foundation] is a nonprofit Michigan corporation whose purposes are to evaluate legal issues and bring environmental litigation on issues of statewide importance. The [Michigan United Conservation Clubs] is a nonprofit Michigan corporation whose purposes are to further the cause of the environment and conservation in all its phases, to promote and encourage the intelligent use of resources, to promote conservation education programs, and to protect and defend the rights of citizens to keep and bear arms.

In *Michigan Soft Drink*, *supra* at 400, the plaintiff was "a domestic nonprofit Michigan corporation, [which] exists to promote the strength and well-being of the Michigan soft drink industry and to influence legislation and public policies affecting the soft drink industry." In both cases, the plaintiffs were found to be the types of plaintiffs envisioned by the court rule.

In this case, plaintiff was formed for the purpose of providing legal aid services to female residents of Michigan's penal institutions and training selected prisoners as paralegals. It is clear that plaintiff is not an advocacy group organized for representative purposes like the plaintiffs in *House*

*Speaker and Michigan Soft Drink*. Therefore, we conclude that plaintiff is not the type of plaintiff envisioned by MCR 2.201(B)(4).

Plaintiff also argues that it has standing to challenge the contract because its members are taxpayers. However, plaintiff has failed to show that it or its members will sustain substantial injury or suffer loss through increased taxation or its consequences. *Menendez v Detroit*, 337 Mich 476, 482; 60 NW2d 319 (1953); *Highland, supra* at 328. Therefore, plaintiff does not have taxpayer standing.

In light of these holdings, we need not address plaintiff's other issues on appeal.

Affirmed.

/s/ Gary R. McDonald

/s/ William B. Murphy

/s/ John D. Payant