

STATE OF MICHIGAN  
COURT OF APPEALS

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KIRK LEAPHART,

Plaintiff-Appellant,

v

DEPARTMENT OF CORRECTIONS,

Defendant-Appellee.

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UNPUBLISHED

December 30, 1997

No. 194372

Court of Claims

LC No. 95-015981 CM

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

Plaintiff appeals by right from a grant of summary disposition in favor of defendant based on MCR 2.116(C)(8), failure to state a claim on which relief may be granted.

Plaintiff's complaint, insofar as summarized by plaintiff in his brief on appeal, seeks to impose liability on the Department of Corrections for the actions of one of its probation officers. The probation officer prepared a presentence report with respect to plaintiff that recommended that plaintiff be incarcerated, allegedly at a time when plaintiff was mentally ill. Under MCL 771.14(2)(c); MSA 28.1144(2)(c), in preparing a presentence investigation report, a probation officer is required to make a specific written recommendation for disposition based on an evaluation and other information as prescribed by the Assistant Director of the Department of Corrections in charge of probation. Under the statute, the purpose of the report is to assist the sentencing judge in exercising sentencing discretion. The report is not prepared for the personal benefit of the subject of the report who is awaiting sentencing. Accordingly, based on the public duty doctrine, the probation officer owes no actionable duty to the subject of a presentence report. *Reno v Chung*, 220 Mich App 102, 105; 559 NW2d 308 (1996).

Furthermore, even if there were such actionable duty on the basis of common law or statute, imposition of respondeat superior liability as against defendant Department of Corrections is precluded by the Governmental Immunity Act, MCL 691.1401 *et seq.*; MSA 3.996(101) *et seq.* Plaintiff did not properly invoke any exceptions to the Governmental Immunity Act. *Codd v Wayne Co*, 210 Mich App 133, 135; 537 NW2d 453 (1995).

Affirmed.

/s/ Richard Allen Griffin

/s/ Stephen J. Markman

/s/ William C. Whitbeck