

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

---

STATE TREASURER,

Plaintiff-Appellant,

v

LAWRENCE D. PONTIUS and ESTATE OF  
LAWRENCE G. PONTIUS, by DEBORAH K.  
KLUJSZA, Personal Representative,

Defendants-Appellees.

---

UNPUBLISHED  
February 21, 2013

No. 309693  
St. Joseph Circuit Court  
LC No. 12-000072-CZ

Before: RIORDAN, P.J., and HOEKSTRA and O'CONNELL, JJ.

PER CURIAM.

Plaintiff appeals by right the trial court's order denying plaintiff's complaint for reimbursement under the State Correctional Facility Reimbursement Act (SCFRA), MCL 800.401 *et seq.* We reverse and remand for entry of an order consistent with this opinion.

In 1982, defendant Lawrence D. Pontius began serving a life sentence in state prison. The record indicates that in 2011, he learned that he was a named beneficiary of the estate of his deceased father, Lawrence G. Pontius. In December 2011, Lawrence D. attempted to disclaim his interest in the estate. In January 2012, plaintiff filed a complaint seeking 90 percent of Lawrence D.'s assets for partial reimbursement of the cost of his incarceration, in keeping with the SCFRA. Lawrence D. responded and argued that because he disclaimed his interest in the estate before receiving any of the estate proceeds and before plaintiff filed its complaint, no part of the estate was subject to plaintiff's SCFRA claim. The trial court agreed with defendant and dismissed plaintiff's complaint.

On appeal, plaintiff argues that the trial court erred in finding that Lawrence D.'s disclaimer precluded plaintiff from reaching his interest in the estate. We agree. We review "de novo issues of statutory interpretation as questions of law. The primary goal of statutory interpretation is to ascertain and give effect to the legislative intent that may reasonably be inferred from the statutory language itself." *State Treasurer v Snyder*, 294 Mich App 641, 645; 823 NW2d 284 (2011) (citations and internal quotations omitted). "If the plain and ordinary meaning of the statutory language is clear, then judicial construction is neither necessary nor

permitted.” *Walters v Bloomfield Hills Furniture*, 228 Mich App 160, 163; 577 NW2d 206 (1998).

Under the SCFRA, “the state is entitled to attach prisoners’ assets to reimburse the state for the cost of imprisonment.” *State Treasurer v Sprague*, 284 Mich App 235, 237; 772 NW2d 452 (2009).

The SCFRA imposes a civil, statutory duty on prisoners to reimburse the state for the cost of their incarceration. Likewise, the SCFRA grants the state a statutory right to reimbursement of up to 90 percent of the value of a prisoner’s assets. MCL 800.403(3). That is, the SCFRA authorizes the filing of a complaint in the circuit court “to secure reimbursement, from the assets of a prisoner, for the expenses incurred by the state for the cost of care of the prisoner during the entire period of his incarceration.” [*State Treasurer v Sheko*, 218 Mich App 185, 187 n 1; 553 NW2d 654 (1996)]; see, also, MCL 800.404(1) and (8). “Assets” are defined by the SCFRA to include “property, tangible or intangible [. . .] belonging to or due a prisoner . . . from any other source whatsoever . . . .” MCL 800.401a(a). [*Snyder*, 294 Mich App at 645 (citations omitted).]

We recently addressed the effect of disclaimer in the context of the SCFRA in *Snyder*, 294 Mich App 641. The defendant in *Snyder* was a state prisoner who received proceeds as the beneficiary of his mother’s life insurance policy. *Id.* at 643. After the State Treasurer filed a complaint against the defendant under the SCFRA, seeking partial reimbursement for the cost of the defendant’s incarceration, the defendant disclaimed his interest in the insurance proceeds pursuant to the Disclaimer of Property Interests Law, MCL 700.2901 *et seq.* *Id.* The trial court ordered that the defendant’s life insurance proceeds be applied toward the SCFRA reimbursement. This Court affirmed and held that “the SCFRA bars a prisoner from disclaiming an interest in assets pursuant to the DPIL.” *Id.* at 650. In reaching this conclusion, this Court explained that “the Legislature’s primary intent would be ignored, and clearly frustrated, if prisoners were permitted to disclaim their interest in assets to which they are, or become, entitled in a dual effort to circumvent their statutory duty and deprive the state of its statutory right.” *Id.* at 648. The Court further noted that “the SCFRA specifically recognizes certain rights and obligations with regard to prisoner assets, but the purported right to disclaim an interest in a potential asset is not recognized.” *Id.*

In the present case, Lawrence D.’s interest in his father’s estate was an “asset” within the meaning of the SCFRA. MCL 800.401a(a) (providing that “assets” include property or payments “due a prisoner”); *Snyder*, 294 Mich App at 649 (“[U]nder the SCFRA acceptance and receipt of the asset is irrelevant; again, the property must merely be due a prisoner. . . . [O]nce [the] defendant’s mother died, defendant was ‘due’ the insurance proceeds.”). At the time Lawrence D.’s interest in the estate became due, he had “a civil, statutory duty . . . to reimburse the state for the cost” of his incarceration, and plaintiff had “a statutory right to reimbursement of up to 90 percent of the value of” Lawrence D.’s assets, which included his interest in the estate. *Snyder*, 294 Mich App at 645; see also *State Treasurer v Schuster*, 456 Mich 408, 418; 572 NW2d 628 (1998) (“[T]he plain and broad language of the reimbursement provisions at issue indicates a legislative intent to shift the burden of incarceration expenses to prisoners and from the taxpayers whenever possible.”).

In sum, we hold that the SCFRA barred Lawrence D. from disclaiming his interest in the estate. See *Snyder*, 294 Mich App at 645, 648-650.

Reversed and remanded. We do not retain jurisdiction.

/s/ Michael J. Riordan

/s/ Joel P. Hoekstra

/s/ Peter D. O'Connell