

**Drayton v State of New York**

2021 NY Slip Op 34074(U)

July 14, 2021

Court of Claims

Docket Number: Claim No. 136246

Judge: Catherine E. Leahy-Scott

Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op 30001(U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.

This opinion is uncorrected and not selected for official publication.

## Synopsis

Motion to dismiss the Claim granted; the Court lacks jurisdiction to review DOCCS' determination to place Claimant in a Residential Treatment Facility (RTF).

## Case information

UID: 2021-058-029  
Claimant(s): WILLIAM DRAYTON, 10 B 0373  
Claimant short name: DRAYTON  
Footnote (claimant name) :  
Defendant(s): STATE OF NEW YORK<sup>(1)</sup>.  
Footnote (defendant name) :  
Third-party claimant(s):  
Third-party defendant(s):  
Claim number(s): 136246  
Motion number(s): M-96815  
Cross-motion number(s):  
Judge: CATHERINE E. LEAHY-SCOTT  
Claimant's attorney: William Drayton, 10-B-0373, Pro Se  
Defendant's attorney: Hon. Letitia James, New York State Attorney General  
By: Christopher J. Kalil, Assistant Attorney General  
Third-party defendant's attorney:  
Signature date: July 14, 2021  
City: Albany  
Comments:  
Official citation:  
Appellate results:  
See also (multicaptioned case)

## Decision

Pro se Claimant William Drayton, an inmate in custody of the Department of Corrections and Community Supervision (DOCCS), filed this Claim on April 14, 2021 sounding in wrongful confinement. Specifically, Claimant alleges he is currently confined in a residential treatment facility (RTF) at Mid-State Correctional Facility despite the fact he was purportedly scheduled to be released from incarceration on December 12, 2019.

Defendant now moves to dismiss the Claim pursuant to CPLR 3211 (a) (2) and (a) (7) on the grounds that this Court lacks jurisdiction over the Claim and the Claim otherwise fails to state a cause of action upon which relief can be granted. Specifically, Defendant contends that this Claim requires review of Defendant's determination to place Claimant in an RTF over which this Court lacks jurisdiction.

"To establish a claim of false imprisonment or unlawful confinement, [a] claimant [is] required to show that (1) [the] defendant intended to confine him, (2) he was conscious of the confinement, (3) he did not consent to the confinement, and (4) such confinement was not otherwise privileged" (Cass v State of New York, 134 AD3d 1207, 1208 [3d Dept 2015], lv dismissed 27 NY3d 972 [2016] [internal quotation marks and citations omitted]; see Miller v State of New York, 124 AD3d 997, 998 [3d Dept 2015]).

A "Residential treatment facility" is

"a correctional facility consisting of a community-based residence in or near a community where employment, educational and training opportunities are readily available for persons who are on parole or conditional release and for persons who are or who will soon be eligible for release on parole who intend to reside in or near that community when released"

(7 NYCRR 1.5 [m]; see also Correction Law § 2 [6]).

Correction Law § 73 (1) and (10) and Penal Law § 70.45 (3) authorize DOCCS to transfer inmates nearing the completion of their sentences to an RTF. The determination to transfer an inmate to an RTF is discretionary, as made clear from the plain language of the statutes. Penal Law § 70.45 (3) states "the board of parole *may* impose as a condition of post-release supervision" that an individual "be transferred to and participate in the programs of [an RTF]" (emphasis added). Likewise, Correction Law § 73 (1) states that "[t]he commissioner *may* transfer any [eligible] inmate . . . to [an RTF]" (emphasis added).

The Court of Claims is a court of limited jurisdiction, charged with "exclusive jurisdiction over actions for money damages against the state" (Monreal v New York State Dept. of Health, 38 AD3d 1118, 1119 [3d Dept 2007]; see NY Const, art VI, § 9; Court of Claims Act §§ 8, 9). A claim "that requires, as a threshold matter, the review of an administrative agency's determination falls outside the subject matter of the Court of Claims" (Pratow Corp. v State of New York, 148 AD3d 1065, 1065-1066 [2d Dept 2017] [internal quotation marks and citation omitted]; see Chevron U.S.A. Inc. v State of New York, 86 AD3d 820, 820 [3d Dept 2011]; Carver v State of New York, 79 AD3d 1393, 1394, [3d Dept 2010], lv denied 17 NY3d 707 [2011]; City of New York v State of New York, 46 AD3d 1168, 1169 [3d Dept 2007], lv denied 10 NY3d 705 [2008]).

It is clear that resolution of this matter requires judicial review of an administrative agency's determination; namely, the propriety of DOCCS' determination to place Claimant in an RTF. This Court lacks jurisdiction to review such determinations, which must be challenged in a proceeding in Supreme Court pursuant to CPLR article 70 or 78 (see Tuitt v State of New York, UID No. 2017-041-070 [Ct Cl, Milano, J., Oct. 16, 2017]; Johns v State of New York, UID No. 2017-040-083 [Ct Cl, McCarthy, J., July 7, 2017]; Alejandro v State of New York, UID No. 2016-015-130 [Ct Cl, Collins, J., May 13, 2016]; see also People ex rel. Johnson v Superintendent, Fishkill Corr. Facility, 47 Misc 3d 984 [Sup Ct, Dutchess County 2015]; People ex rel. White v Superintendent, Woodbourne Corr. Facility, 45 Misc 3d 1202 [A], 2014 NY Slip Op 51422 [U] [Sup Ct, Sullivan County 2014]). Consequently, this Court lacks subject matter jurisdiction over the Claim.

Moreover, aside from the jurisdictional limitations of this Court, the law is clear that the State is immune from liability from the discretionary decision to place inmates in an RTF even if said determination was negligently made (see Johns, UID No. 2017-040-083; Alejandro, UID No. 2016-015-130; see also Donald v State of New York, 17 NY3d 389, 396 [2011]; Hudson v State of New York, 115 AD3d 1020, 1023 [3d Dept 2014], lv denied 23 NY3d 907 [2014]).

Accordingly, it is hereby:

ORDERED that Defendant's Motion No. M-96815 is GRANTED and Claim No. 136246 is DISMISSED in its entirety.

July 14, 2021

Albany, New York

CATHERINE E. LEAHY-SCOTT

Judge of the Court of Claims

The Court considered the following papers in deciding this motion:

(1) Notice of Motion, dated May 5, 2021.

(2) Affirmation of Christopher J. Kalil, Esq., Assistant Attorney General, dated May 5, 2021, with attachments.

1. The caption is amended *sua sponte* to reflect the State of New York as the only proper Defendant.

<& /claims/inclusions/footer.htm &>