

[Cite as *Haddix v. Ohio Dept. of Rehab. & Corr.*, 2020-Ohio-2874.]

DOUGLAS HADDIX

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2019-00699JD

Judge Patrick M. McGrath
Magistrate Gary Peterson

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

{¶1} On January 8, 2020, defendant filed a motion pursuant to Civ.R. 56(B) for summary judgment. On January 21, 2020, plaintiff filed a memorandum in opposition. Defendant's motion for summary judgment is now before the court for a non-oral hearing pursuant to L.C.C.R. 4(D).

{¶2} Civ.R. 56(C) states, in part, as follows:

{¶3} "Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor." See also *Gilbert v. Summit Cty.*, 104 Ohio St.3d 660, 2004-Ohio-7108, 821 N.E.2d 564, ¶ 6, citing *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317, 364 N.E.2d 267 (1977).

{¶4} On June 7, 2019, plaintiff, an inmate in the custody and control of defendant at the Warren Correctional Institution, filed a complaint against defendant, alleging false imprisonment. In the complaint, plaintiff relates that he was originally sentenced to an

indefinite term of imprisonment of 17 to 50 years in defendant's custody. Complaint, ¶ 4. The complaint goes on to state that on December 21, 2018, the Ohio General Assembly enacted legislation "that gave Plaintiff the right of release after the effective date of March 22, 2019 upon the expiration of his non-life indefinite minimum prison term." *Id.* at 5. On March 26, 2019, plaintiff appeared for "his scheduled parole hearing and immediate release." *Id.* at 6. Despite the alleged "right of release," defendant refused to release plaintiff and continues to confine him. *Id.* at 7. As a result, plaintiff brings this action for false imprisonment.

{¶5} Defendant argues that parole board decisions are protected by discretionary immunity and are not within the subject-matter jurisdiction of this court. Defendant further argues that the Reagan Tokes Law, the law upon which plaintiff believes he is entitled to his immediate release, does not apply to current inmates like plaintiff and that plaintiff thus is not falsely imprisoned because his maximum sentence has not expired.

{¶6} The crux of the complaint is plaintiff's belief that defendant either applied the incorrect law or misapplied the law with respect to the parole board's decision to deny plaintiff parole. However, "the Court of Claims has no jurisdiction to hear a claim attacking a parole board's decision to grant or deny parole." *Troutman v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin Nos. 03AP-1240 and 04AP-670, 2005-Ohio-334, ¶ 8. It is also well-settled that the "Court of Claims Act does not create new causes of action where none existed in the past and it creates no cause of action for money damages arising from the Adult Parole Authority's rules with respect to the reason the authority gives for not granting parole to an inmate." *Ross v. Shoemaker*, 3 Ohio App.3d 31, 32 (10th Dist.1981). *See also State ex rel. Blake v. Shoemaker*, 4 Ohio St.3d 42, 43 (1983). Moreover, "a parole board's decision to grant or deny parole is an executive function involving a high degree of official judgment or discretion." *Deavors v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 98AP-1105, 1999 Ohio App. LEXIS 2338 (May 20, 1999). In short, the court lacks jurisdiction to consider plaintiff's

claim attacking the parole board's decision to deny parole even if it allegedly misapplied the law as plaintiff alleges.

{¶7} Regarding the claim of false imprisonment, defendant argues that it is entitled to judgment as a matter of law because plaintiff's maximum sentence has not yet expired. "False imprisonment occurs when a person confines another intentionally "without lawful privilege and against his consent within a limited area for any appreciable time, however short." *Bennett v. Ohio Dept. of Rehab. & Corr.*, 60 Ohio St.3d 107, 109, 573 N.E.2d 633 (1991), quoting *Feliciano v. Kreiger*, 50 Ohio St.2d 69, 71, 362 N.E.2d 646 (1977), quoting 1 Harper & James, *The Law of Torts*, Section 3.7, 226 (1956). "Under the provisions of R.C. 2743.02(A)(1), 'the state may be held liable for the false imprisonment of its prisoners.'" *Abercrombie v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 16AP-744, 2017-Ohio-5606, ¶ 9, quoting *Bennett* at paragraph two of the syllabus. A plaintiff may not maintain an action for false imprisonment, however, when the imprisonment is in accordance with an order of a court, unless it appears that the order is void on its face. *Fisk v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 11AP-432, 2011-Ohio-5889, ¶ 12. "Accordingly, [defendant] may not be held liable on a claim for false imprisonment if [defendant] incarcerated the plaintiff pursuant to a facially-valid order, even if that order is later determined to be void." *Id.*

{¶8} In support of its motion, defendant submitted the affidavit of Angela Daily, a correctional records sentence computation auditor for the Bureau of Sentence Computation, which is responsible for compiling sentencing documents and computing release dates for individuals in defendant's custody. Defendant's Motion for Summary Judgment, Exhibit A ¶ 2. Daily relates that in 1995, plaintiff was convicted of two counts of rape, one count of felonious sexual penetration, one count of gross sexual imposition, and one count of child endangering. *Id.* at ¶ 4. Plaintiff was sentenced to 10 to 25 years on both rape convictions, which were to run concurrent to each other. *Id.* Plaintiff

was sentenced to 5 to 25 years on the felonious sexual penetration conviction, which runs consecutively to the rape convictions. *Id.* Plaintiff was also sentenced to a definite sentence of two years for gross sexual imposition, which was to run consecutively to the other convictions. *Id.* Plaintiff was awarded 100 days of jail time credit and was not sentenced on the endangering children conviction. *Id.* Plaintiff was admitted to defendant's custody on May 5, 1995. *Id.* at ¶ 5. Plaintiff was subsequently acquitted of the endangering children conviction and his maximum expiration of his sentence was calculated to be June 7, 2046, due to an indefinite sentence of 15 to 50 years in prison. *Id.* at ¶ 6-7. Defendant also attached the sentencing entries to Daily's affidavit. Defendant's Motion for Summary Judgment, Exhibit A 1-3.

{¶9} Plaintiff, however, did not submit evidence to rebut that submitted by defendant. Civ.R. 56(E) provides "[w]hen a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon mere allegations or denials of his pleadings, but the party's response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party."

{¶10} Therefore, it must be concluded, based on the undisputed evidence submitted by defendant that plaintiff was sentenced to an indefinite term of imprisonment of 15 to 50 years based on multiple felony convictions. Plaintiff first entered defendant's custody on May 5, 1995. After applying available jail time credit, plaintiff's maximum sentence date is June 7, 2046. There is no evidence before the court to suggest that the sentencing entries are somehow invalid.

{¶11} Plaintiff argues that the Reagan Tokes Law created a right to parole. However, examining and applying legislative enactments requires the consideration of extrinsic information, and where the invalidity of the sentencing entry is only apparent upon the application of extrinsic information, the judgment entry is not facially invalid.

McKinney v. Ohio Dept. of Rehab. & Corr., 10th Dist. Franklin No. 09AP-960, 2010-Ohio-2323, ¶ 12; *Beachum v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 11AP-635, 2012-Ohio-673, ¶ 7 (“Facial invalidity does not require the consideration of extrinsic information or the application of case law.”); *Pruitt v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 13AP-117, 2013-Ohio-3743, ¶ 7 (“Facial invalidity does not require the consideration of extrinsic information or the application of case law.”) Accordingly, plaintiff is incarcerated pursuant to facially valid sentencing entries.

{¶12} For the foregoing reasons, the court finds that there are no genuine issues of material fact and that defendant is entitled to judgment as a matter of law. Plaintiff’s claim that defendant misapplied or improperly denied him parole is DISMISSED for lack of subject-matter jurisdiction. Furthermore, as to plaintiff’s remaining claim of false imprisonment, defendant’s motion for summary judgment is GRANTED, and judgment is rendered in favor of defendant. All previously scheduled events are VACATED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

PATRICK M. MCGRATH
Judge