

IN THE COURT OF APPEALS OF OHIO
TENTH APPELLATE DISTRICT

Charles A. Williams,	:	
	:	
Plaintiff-Appellant,	:	No. 09AP-77
v.	:	(C.C. No. 2008-01014)
	:	
Ohio Department of Rehabilitation and Correction,	:	(REGULAR CALENDAR)
	:	
Defendant-Appellee.	:	
	:	

D E C I S I O N

Rendered on August 11, 2009

Raymond Becker, for appellant.

Richard Cordray, Attorney General, and *Amy S. Brown*, for
appellee.

APPEAL from the Court of Claims of Ohio

KLATT, J.

{¶1} Plaintiff-appellant, Charles A. Williams, appeals from a judgment of the Court of Claims of Ohio granting the summary judgment motion of defendant-appellee, Ohio Department of Rehabilitation and Correction ("ODRC"), and denying plaintiff's summary judgment motion. Because the trial court properly granted summary judgment to ODRC, and denied summary judgment to plaintiff on plaintiff's claim that ODRC falsely imprisoned him, we affirm.

{¶2} According to the evidence submitted with the cross-motions for summary judgment, on March 1, 2004, the Hamilton County Court of Common Pleas found plaintiff guilty of one count of violating a protection order. As a result, plaintiff was sentenced to a term in a residential treatment program at the River City Correctional Center ("RCCC") and to five years of community control thereafter, to be served concurrently with his sentence in a separate criminal case. After RCCC released plaintiff, his community control sanctions commenced. On February 23, 2005, the trial court found that plaintiff had violated those sanctions. The court terminated the sanctions and sentenced plaintiff to a nine-month prison term "with credit given for days served." The court ordered the sentence to run concurrently with the sentence in the other criminal case.

{¶3} Plaintiff was conveyed to ODRC's custody on March 1, 2005. Based upon the sentencing and conveyance information it received at that time, ODRC determined that plaintiff was entitled to six days jail-time credit (the period between his sentence and conveyance) and that his release date was November 22, 2005.

{¶4} On April 8, 2005, plaintiff, pro se, filed a motion requesting an additional 222 days of jail-time credit. Plaintiff filed an identical motion on April 15, 2005.

{¶5} On July 18, 2005, the trial court filed a judgment entry granting plaintiff's motion for jail-time credit, allowing plaintiff 28 days of jail-time credit "plus conveyance time to the institution," inclusive of any previously granted credit. Plaintiff's release date was recalculated as October 26, 2005.

{¶6} On August 4, 2005, the trial court filed another judgment entry granting plaintiff's motion for jail-time credit, this time allowing plaintiff 206 days of jail-time credit, inclusive of any previously granted credit. Melissa Adams, an employee of the Bureau of

Sentence Computation at ODRC, avers in an affidavit accompanying ODRC's summary judgment motion that ODRC received this entry on August 5, 2005 and released plaintiff the same day.

{¶7} On January 2, 2008, plaintiff filed a complaint in the Court of Claims of Ohio contending that ODRC "refused, failed or neglected to comply with its duties pursuant to R.C. 2967.191" to correctly calculate plaintiff's release date, including any jail-time credit he should receive. (Complaint, ¶16.) Plaintiff asserted that ODRC's failure to comply with R.C. 2967.191 resulted in ODRC falsely imprisoning him from April 16, 2005 to August 5, 2005.

{¶8} After answering plaintiff's complaint, ODRC filed a motion for summary judgment on July 10, 2008, contending that it was not liable to plaintiff for false imprisonment because ODRC imprisoned plaintiff in accordance with the trial court's facially valid February 23, 2005 judgment entry. Plaintiff responded with a cross-motion for summary judgment contending ODRC was liable for falsely imprisoning plaintiff because it failed to credit him with the appropriate amount of jail-time credit.

{¶9} In resolving the cross-motions for summary judgment, the Court of Claims determined plaintiff's false imprisonment claim failed because ODRC acted in accordance with the facially valid entry of the sentencing court, which did not specify any amount of jail-time credit due plaintiff. Rejecting plaintiff's contention that ODRC had a duty under R.C. 2967.191 to investigate and calculate his jail-time credit, the Court of Claims concluded that ODRC was not liable for false imprisonment because "when [it] received an accurate calculation of plaintiff's jail-time credit from the common pleas court and determined that its privilege to confine plaintiff no longer existed, it promptly released

him." (Decision, 4). The Court of Claims thus granted summary judgment to ODRC, denied plaintiff's summary judgment motion, and entered judgment for ODRC.

{¶10} Plaintiff appeals, advancing a single assignment of error, as follows:

The court erred in finding that the Ohio Department of Rehabilitation and Corrections [sic] has the authority to ignore the obligation imposed upon it pursuant to R.C. 2967.191 if the sentencing court does not quantify the number of days it orders that a prisoner is entitled to receive credit for.

{¶11} Appellate review of summary judgment is de novo. *Andersen v. Highland House Co.*, 93 Ohio St.3d 547, 548, 2001-Ohio-1607. " ' When reviewing a trial court's ruling on summary judgment, the court of appeals conducts an independent review of the record and stands in the shoes of the trial court.' " *Abrams v. Worthington*, 169 Ohio App.3d 94, 2006-Ohio-5516, ¶11, quoting *Mergenthal v. Star Banc Corp.* (1997), 122 Ohio App.3d 100, 103. Civ.R. 56(C) provides that a court must grant summary judgment when the moving party demonstrates that: (1) there is no genuine issue of material fact, (2) the moving party is entitled to judgment as a matter of law, and (3) 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. *Gilbert v. Summit Cty.*, 104 Ohio St.3d 660, 2004-Ohio-7108, ¶6.

{¶12} Plaintiff's complaint asserts a common law claim of false imprisonment. "Pursuant to R.C. 2743.02(A)(1), the state may be held liable for the false imprisonment of its prisoners." *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St.3d 107, paragraph two of the syllabus. "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.' " *Id.* at 109, quoting *Feliciano v. Kreiger* (1977),

50 Ohio St.2d 69, 71. "[T]he elements for wrongful imprisonment of an inmate beyond a lawful term of incarceration would be: (1) expiration of the lawful term of confinement, (2) intentional confinement after the expiration, and (3) knowledge that the privilege initially justifying the confinement no longer exists." *Corder v. Ohio Dept. of Rehab & Corr.* (1994), 94 Ohio App.3d 315, 318. However, an action for false imprisonment cannot be maintained when the imprisonment is in accordance with the judgment or order of a court, unless it appears such judgment or order is void on its face. *Bradley v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 07AP-506, 2007-Ohio-7150, ¶10, citing *Bennett*. Thus, although the state may be liable for false imprisonment, it retains immunity under common law for claims of false imprisonment when the plaintiff was incarcerated pursuant to a facially valid judgment or order. *Id.* at ¶11.

{¶13} Here, the undisputed evidence reveals that although the trial court stated in its February 23, 2005 sentencing entry that plaintiff was entitled to jail-time credit, it failed to specify the number of days plaintiff was entitled to receive. ODRC was statutorily required to confine plaintiff "until the term of the felon's imprisonment expires, the felon is pardoned, paroled, or placed under a post-release control sanction, or the felon is transferred under laws permitting the transfer of prisoners." R.C. 2949.12. Because ODRC had custody pursuant to a valid sentencing entry, ODRC was privileged and lawfully required to confine plaintiff from March 1, 2005, the day he arrived in ODRC's custody, until August 5, 2005, the day ODRC learned that it no longer was privileged to confine him.

{¶14} Plaintiff seeks to hold ODRC liable for the sentencing court's failure to timely calculate his jail-time credit and include such award in the sentencing entry. More

specifically, plaintiff maintains that ODRC had a duty under R.C. 2967.191 to investigate the amount of jail-time credit to which he was entitled and to apply such credit despite the sentencing court's failure to specify the amount of jail-time credit owed. We disagree.

{¶15} Although ODRC has a duty pursuant to R.C. 2967.191 to credit an inmate's sentence with his jail-time credit, it is the sentencing court's responsibility to make "the factual determination as to the number of days of confinement that a defendant is entitled to have credited toward his sentence." *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 2003-Ohio-2061, ¶7. ODRC has no duty under R.C. 2967.191 to investigate the amount of jail-time credit to which an inmate is entitled. *Trice v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 07AP-828, 2008-Ohio-1371, ¶19, citing *Doyle v. Ohio Dept. of Rehab. & Corr.*, C.C. No. 2005-06716, 2006-Ohio-1802. "To the contrary, *Doyle* found ODRC had no discretion to release an inmate until it received an entry indicating ODRC no longer was privileged or justified in confining the inmate." *Id.* "Although R.C. 2967.191 requires ODRC to reduce an inmate's sentence by the number of days of pre-trial confinement, it does not impose on ODRC the responsibility to determine whether the sentencing court accurately specified the amount of jail-time credit in its sentencing entry." *Id.* at ¶ 22.

{¶16} In short, ODRC cannot apply jail-time credit that has not been calculated by the sentencing court. At all times plaintiff was in ODRC's custody, he was imprisoned in accordance with the valid judgment of the sentencing court. Accordingly, ODRC was privileged and lawfully required to confine plaintiff from March 1, 2005 to August 5, 2005, the day the sentencing court provided it with an accurate calculation of plaintiff's jail-time credit. Once ODRC learned plaintiff's sentence had expired, it released him from its

custody and control. As the evidence fails to establish that ODRC continued to confine plaintiff after it had knowledge that the privilege initially justifying his confinement no longer existed, the Court of Claims properly granted summary judgment in favor of ODRC and against plaintiff on his false imprisonment claim.

{¶17} For the foregoing reasons, plaintiff's sole assignment of error is overruled and the judgment of the Court of Claims of Ohio is hereby affirmed.

Judgment affirmed.

BRYANT and CONNOR, JJ., concur.
