

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

Cardell Beachum,	:	
Plaintiff-Appellant,	:	
v.	:	No. 11AP-635 (C.C. No. 2010-07890)
Ohio Department of Rehabilitation and Correction,	:	(REGULAR CALENDAR)
Defendant-Appellee.	:	
	:	

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D E C I S I O N

Rendered on February 21, 2012

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*Cardell Beachum, pro se.*

*Michael DeWine, Attorney General, Eric A. Walker and  
Jennifer Anne Adair, for appellee.*

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APPEAL from the Court of Claims of Ohio

KLATT, J.

{¶ 1} Plaintiff-appellant, Cardell Beachum, appeals from a judgment of the Court of Claims of Ohio granting summary judgment in favor of defendant-appellee, Ohio Department of Rehabilitation and Correction ("ODRC"). For the following reasons, we affirm that judgment.

**Factual and Procedural Background**

{¶ 2} Appellant was an inmate in the custody of ODRC from September 2006 until his release in March 2011. He was imprisoned as the result of a number of prison sentences he received in 2006 from both the Sandusky and Erie County Courts of Common Pleas. On June 4, 2010, however, appellant filed a complaint in the trial court in

which he claimed that the ODRC falsely imprisoned him. Specifically, he claimed that his prison sentences from Erie County were void because the trial court's sentencing entries failed to properly notify him of post-release control.<sup>1</sup> The ODRC requested summary judgment on appellant's claim, arguing that it was not liable for false imprisonment as a matter of law because it imprisoned appellant pursuant to facially-valid sentencing entries. The trial court agreed and, accordingly, granted summary judgment in favor of the ODRC.

{¶ 3} Appellant appeals and assigns the following errors:

**[1]. WHETHER THE FAILURE TO EMPLOY A MANDATORY DEPARTMENTAL POLICY TO WHICH PREJUDICE AND INJURY DOES ATTACH, CONSTITUTE ACTS OR OMISSIONS MANIFESTLY OUTSIDE THE SCOPE OF OFFICIAL DUTIES AND RESPONSIBILITIES AS DEFINED IN O.R.C. § 2743.**

**[2]. WHETHER SUMMARY JUDGMENT IS APPROPRIATE IN THE FACE OF RECORD FACTS ALLEGING A SUBSTANTIVE, NEGLIGENT, AND WANTON DEPARTURE FROM PRESCRIBED DEPARTMENTAL PROCEDURES.**

### **Appellant's Assignments of Error – False Imprisonment Claim**

{¶ 4} Appellant's assignments of error do not address the merits of the trial court's decision, in which the trial court determined that appellant's false imprisonment claim was not viable because the ODRC imprisoned him at all times pursuant to facially-valid sentencing entries.<sup>2</sup> In the interest of justice, we will address this issue.

{¶ 5} Appellate review of summary judgment is de novo. *Andersen v. Highland House Co.*, 93 Ohio St.3d 547, 548, (2001). " '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 (10th Dist.), quoting *Mergenthal v. Star Banc Corp.*, 122 Ohio

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<sup>1</sup> In 2009, after appellant raised the issue, the trial court did correct those mistakes by filing a Nunc Pro Tunc judgment entry in each case. Those entries did not affect appellant's prison sentences in either case.

<sup>2</sup> To the extent that the assignments of error appear to address immunity for ODRC employees, we note that appellant did not name any such employees as defendants in this case and did not request an immunity determination in the trial court.

App.3d 100, 103 (12th Dist.1997). 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.

{¶ 6} Appellant'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.*, 60 Ohio St.3d 107 (1991), 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*, 50 Ohio St.2d 69, 71 (1977). "[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.*, 94 Ohio App.3d 315, 318 (10th Dist.1994). 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, the state is immune from a common law claim of false imprisonment when the plaintiff was incarcerated pursuant to a facially-valid judgment or order, even if the facially-valid judgment or order is later determined to be void. *Bradley* at ¶ 11; *Likes v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 05AP-709, 2006-Ohio-231, ¶ 10.

{¶ 7} Here, the ODRC incarcerated appellant pursuant to two judgment entries entered by the Erie County Court of Common Pleas. The trial court concluded that the judgment entries were not void on their face, noting that the judgment entries did not contain any errors that would draw into question the validity of the entries. We agree. There is nothing on the face of the judgment entries that brings into question the validity of those entries. Rather, a determination of their invalidity would have required

consideration and application of relevant case law. To succeed on a false imprisonment claim based on imprisonment pursuant to a court's entry or order, however, the court's entry must be invalid on its face. Facial invalidity does not require the consideration of extrinsic information or the application of case law. *McKinney v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 09AP-960, 2010-Ohio-2323, ¶ 12, citing *Gonzales v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 08AP-567, 2009-Ohio-246, ¶ 10 (noting that an allegation that case law demonstrated the invalidity of an entry does not challenge the facial validity of the entry); *see also Bradley* at ¶ 14. Here, the invalidity of the judgment entries is only apparent by the consideration and application of case law. Therefore, the judgment entries were not facially invalid, and the state is therefore immune from a common law claim of false imprisonment. *Id.* at ¶ 11.

{¶ 8} In conclusion, we find that the Erie County Court of Common Pleas' judgment entries were valid on their face and, therefore, cannot support a common law false imprisonment claim. Accordingly, the trial court did not err by granting summary judgment in favor of the ODRC. We overrule appellant's assignments of error and affirm the judgment of the Court of Claims of Ohio.

*Judgment affirmed.*

FRENCH and TYACK, JJ., concur.

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