

IN THE COURT OF APPEALS OF OHIO  
TENTH APPELLATE DISTRICT

Kenneth Pruitt,	:	
Plaintiff-Appellant,	:	
v.	:	No. 13AP-117 (Ct. of Cl. No. 2012-08591)
Ohio Department of Rehabilitation and Correction,	:	(ACCELERATED CALENDAR)
Defendant-Appellee.	:	

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D E C I S I O N

Rendered on August 29, 2013

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*Kenneth Pruitt, pro se.*

*Michael DeWine, Attorney General, and Emily M. Simmons,*  
for appellee.

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APPEAL from Court of Claims of Ohio

KLATT, P.J.

{¶ 1} Plaintiff-appellant, Kenneth Pruitt, appeals from a judgment of the Court of Claims of Ohio granting a motion to dismiss his complaint for failure to state a claim filed by defendant-appellee, the Ohio Department of Rehabilitation and Correction ("ODRC"). For the following reasons, we affirm that judgment.

**I. Factual and Procedural Background**

{¶ 2} On December 6, 2012, appellant filed a complaint in the trial court alleging that he had been kept in prison beyond his lawful term of imprisonment. Specifically, appellant's complaint and attached documents indicated that he had pled guilty in the

Hamilton County Court of Common Pleas to a number of charges in 2010 and received a total prison sentence of five years. Although his sentencing entry noted that he was to receive jail-time credit, the entry did not include the number of days of such credit. As a result, he filed a motion to clarify his award of jail-time credit. On February 17, 2011, the Hamilton County court filed an "Entry Granting Motion for Jail Time Credit" in which it credited appellant with 1,530 days of jail-time credit. On the next day, however, the same court filed an "Order," in which it set aside the February 17 entry (the order indicated that the previous entry had been "inadvertently entered") and, instead, granted appellant 553 days of jail-time credit. Appellant claimed in his complaint that the February 18 order was a "forged document, illicitly sent by the trial court's bailiff" to hold him beyond his lawful term of imprisonment by reducing his jail-time credit by almost 1,000 days.

{¶ 3} ODRC filed a motion to dismiss appellant's complaint for its failure to state a claim upon which relief could be granted. In part, ODRC argued that it could not be liable for false imprisonment because it held appellant at all times pursuant to the facially valid sentencing entry of February 18, 2011. The trial court granted the motion, concluding that appellant could not maintain a cause of action for false imprisonment because his claim was based on the facially valid sentencing order of February 18, 2011. While appellant did argue that the order was forged, the trial court noted that his complaint identified nothing on the face of the order that would indicate its invalidity. Accordingly, the trial court dismissed appellant's complaint against ODRC.

## **II. The Appeal**

{¶ 4} Appellant appeals the dismissal and assigns the following errors:

[1.] The Court of Claims erred in dismissing the complaint against Defendant without considering evidence whether their actions were in the scope of their authority.

[2.] The court of claims erred in dismissing the complaint before determining Plaintiff's Motion for Declaratory Judgment of the Pleadings.

[3.] The Court of Claims erred by dismissing the false imprisonment claim for lack of jurisdiction.

[4.] The Court of Claims erred in dismissing the complaint upon Defendant's Motion for Judgment on the Pleadings.

### **A. Standard of Review**

{¶ 5} We will address appellant's assignments of error together. Appellant appeals the trial court's decision to dismiss his complaint pursuant to Civ.R. 12(B)(6) for failure to state a claim. A motion to dismiss for failure to state a claim upon which relief can be granted tests the sufficiency of the complaint. *Volbers-Klarich v. Middletown Mgt., Inc.*, 125 Ohio St.3d 494, 2010-Ohio-2057, ¶ 11. Therefore, a trial court must limit its consideration to the four corners of the complaint when deciding a Civ.R. 12(B)(6) motion to dismiss. *Singleton v. Adjutant Gen. of Ohio*, 10th Dist. No. 02AP-971, 2003-Ohio-1838, ¶ 18. In construing a complaint upon a Civ.R. 12(B)(6) motion, a court must presume that all factual allegations in the complaint are true and make all reasonable inferences in the plaintiff's favor. *Volbers-Klarich* at ¶ 12; *LeRoy v. Allen, Yurasek & Merklin*, 114 Ohio St.3d 323, 2007-Ohio-3608, ¶ 14. A trial court may dismiss the case only if it appears beyond a doubt that the plaintiff can prove no set of facts entitling the plaintiff to recover. *O'Brien v. Univ. Community Tenants Union, Inc.*, 42 Ohio St.2d 242 (1975), syllabus. " '[A]s long as there is a set of facts, consistent with the plaintiff's complaint, which would allow the plaintiff to recover, the court may not grant a defendant's motion to dismiss.' " *Cincinnati v. Beretta U.S.A. Corp.*, 95 Ohio St.3d 416, 2002-Ohio-2480, ¶ 5, quoting *York v. Ohio State Hwy. Patrol*, 60 Ohio St.3d 143, 144 (1991). Appellate court review of a trial court's decision to dismiss a claim pursuant to Civ.R. 12(B)(6) is de novo. *Ohio Bur. of Workers' Comp. v. McKinley*, 130 Ohio St.3d 156, 2011-Ohio-4432, ¶ 12.

### **B. Common Law Claim for False Imprisonment**

{¶ 6} Initially, we note that appellant does not present a claim pursuant to R.C. 2743.48, the wrongful imprisonment statute. Instead, appellant's complaint asserts a common law claim for false imprisonment. 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 (1991), quoting *Feliciano v. Krieger*, 50 Ohio St.2d 69, 71 (1977); *Roberson v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 03AP-538, 2003-Ohio-6473, ¶ 9. The state may be held liable for false imprisonment. *Id.*; *Bennett* at paragraph two of the syllabus.

{¶ 7} An action for false imprisonment cannot be maintained, however, 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; *Fryerson v. Dept. of Rehab. & Corr.*, 10th Dist. No. 02AP-1216, 2003-Ohio-2730, ¶ 17; *Diehl v. Friester* (1882), 37 Ohio St. 473, 475. 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; *Roberson* at ¶ 9; *Likes v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 05AP-709, 2006-Ohio-231, ¶ 10. Therefore, to succeed on a false imprisonment claim based on imprisonment pursuant to a court's entry or order, the court's entry must be invalid on its face. *Beachum v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 11AP-635, 2012-Ohio-673, ¶ 7. 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.

{¶ 8} Here, appellant argues that he is being held beyond his lawful term of imprisonment due to the Hamilton County court's February 18, 2011 order which reduced his jail-time credit by almost 1,000 days.<sup>1</sup> The trial court concluded that the order was valid on its face, noting that appellant could not identify anything on the face of the order that would indicate its invalidity. We agree. There is nothing on the face of the document that would indicate it was void or even draw into question the validity of the order. *Beachum* at ¶ 7; *McKinney* at ¶ 12; *Bradley* at ¶ 15. Appellant's bare speculation that the document was forged is insufficient to bring into question the facial validity of the order.<sup>2</sup>

### **III. Conclusion**

{¶ 9} In conclusion, we find that the Hamilton County court's February 18, 2011 order is valid on its face and, therefore, cannot form the basis of a common law false imprisonment claim. Accordingly, the trial court did not err by granting ODRC's motion

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<sup>1</sup> It appears that appellant would already have been released from custody had he received those days of jail-time credit.

<sup>2</sup> For this reason, we deny appellant's "Motion for Immediate and Equitable Relief" filed August 21, 2013.

to dismiss for failure to state a claim because appellant can prove no set of facts entitling him to recover for false imprisonment. We overrule appellant's four assignments of error, deny appellant's "Motion for Immediate and Equitable Relief," and affirm the judgment of the Court of Claims of Ohio.

*Appellant's motion for immediate and equitable relief denied;  
judgment affirmed.*

TYACK and O'GRADY, JJ., concur.

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