

[Cite as *Lucy v. Richland Correctional Inst.*, 2002-Ohio-4621.]

IN THE COURT OF CLAIMS OF OHIO

MELVIN J. LUCY	:	
481 S. Arlington Street	:	
Akron, Ohio 44306	:	Case No. 2002-03368-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
RICHLAND CORRECTIONAL INST.	:	
Defendant	:	

: : : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel  
 Department of Rehabilitation and  
 Correction  
 1050 Freeway North  
 Columbus, Ohio 43229

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{¶1} On July 30, 2001, plaintiff, Melvin J. Lucy, was admitted to Lorain Correctional Institution to serve an eight-month sentence upon a conviction rendered in the Summit County Court of Common Pleas. Plaintiff was granted credit for jail time served to be calculated by the Summit County Adult Probation Department. Any jail time credit due plaintiff was intended to act as a sentence reduction for time served in the institution. Initially, plaintiff was given five days credit against his sentence for conveyance time between sentencing and admission to the institution. Consequently, plaintiff's release date with the five days conveyance time credit was calculated to be March 25, 2002.

{¶2} On August 27, 2001, plaintiff was transferred to

defendant, Richland Correctional Institution, to serve the remainder of his sentence. At the time of the transfer no documentation of plaintiff's jail time credit had been received at defendant's institution from Summit County. On January 2, 2002, defendant received an entry from the Summit County Court of Common Pleas relating plaintiff was entitled to a total of eight-five days jail time credit for time served in the Summit County jail. After receiving this information defendant recalculated plaintiff's release date to December 31, 2001; a date which had occurred two days prior to defendant receiving the entry regarding jail time credit. Defendant actually released plaintiff from custody on January 2, 2001, the same day news was received concerning plaintiff's jail time credit. In effect plaintiff had been incarcerated for two days past his recalculated release date.

{¶3} Plaintiff has asserted he spent ten extra days incarcerated at defendant, Richland Correctional Institution, although all evidence establishes plaintiff was actually unintentionally held for just two days past the expiration of his sentence. Plaintiff calculated his release date as December 23, 2001, but offered no evidence to show he was supposed to be released on that date. Plaintiff claimed damages of \$2,500.00 for mental anguish and frustration caused by his alleged false imprisonment. Plaintiff has not produced any evidence to prove he actually suffered these professed damage elements based on his time served beyond the expiration of his sentence.

{¶4} Defendant has denied any liability in this matter. Defendant has recognized pursuant to R.C. 2743.02(A)(1) the state may be held liable for the false imprisonment of its prisoners in situations where the state intentionally continues to confine a prisoner despite knowledge the privilege justifying that confinement no longer exists. *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St. 3d 107. In the instant action, defendant denied having knowledge the privilege to continue to incarcerate

did not exist after December 31, 2001. Evidence has been presented to support the contention defendant was unaware until January 2, 2002 that plaintiff's term of incarceration had expired. When defendant received notice of the expiration of plaintiff's sentence, plaintiff was released. Defendant has asserted plaintiff has failed to prove any set of facts showing he is entitled to recover damages for false imprisonment. The court agrees. Plaintiff's claim is denied.

{¶5} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶6} IT IS ORDERED THAT:

{¶7} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶8} 2) The court shall absorb the court costs of this case.

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DANIEL R. BORCHERT  
Deputy Clerk

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