

IN THE COURT OF CLAIMS OF OHIO

TIMOTHY R. LETSO	:	
43 Grand Avenue	:	
Akron, Ohio 44302	:	Case No. 2002-03759-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
OHIO DEPARTMENT OF	:	
REHABILITATION AND CORRECTIONS	:	
Defendant	:	

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

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

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{¶1} Plaintiff, Timothy R. Letso, a former inmate incarcerated at defendant's Lorain Correctional Institution, has alleged he was falsely imprisoned by defendant for a period of twenty-six days beyond the expiration of his criminal sentence. Plaintiff has asserted he was entitled to receive fifty-five days jail time credit to be applied against his sentence, but only received twenty-nine days jail time credit. According to plaintiff he should have been released from defendant's facility on or about March 30, 2001, but was confined until April 25, 2001. Consequently, plaintiff filed this claim seeking to recover \$2,496.00 for work loss based on the intentional tort of false imprisonment. Plaintiff stated he "lost a job paying me \$12.00 per hour, a total of \$2,496.00."

{¶2} Defendant filed an investigation report acknowledging plaintiff was held beyond the expiration of his sentence due to a miscalculation in jail time credit. Defendant explained plaintiff was held eighteen days past his release date. Defendant indicated

plaintiff was entitled to forty-seven days of jail time credit, but was granted only twenty-nine days credit by defendant's Record Office staff.

{¶3} Although defendant admitted plaintiff was confined for eighteen days without justification, liability has been denied. Defendant reasoned plaintiff was negligent in failing to inform the Record Office of his actual jail time credit and demanding his release. Defendant stated plaintiff had documentation of his jail time credit and failed to timely present this documentation to the proper authority. Therefore, defendant has argued plaintiff's own contributory negligence outweighed any negligent act or omission on the part of defendant. Defendant has not characterized the present claim as grounded on an intentional tort.

{¶4} Alternatively, defendant has contended plaintiff has failed to prove he suffered any damages as a proximate cause of his eighteen day over confinement. Defendant specifically asserted plaintiff has not established he lost any wages let alone a job paying \$12.00 per hour.

{¶5} Plaintiff filed a response demanding he receive "adequate compensation for the admitted eighteen days of illegal confinement." Plaintiff asserted he made attempts to notify defendant's Record Office about his jail time credit.

{¶6} Plaintiff's claim is based on false imprisonment, an intentional tort. This false imprisonment has been stipulated by defendant. Any negligence on the part of plaintiff has no bearing or application to an action involving an intentional tort. *Labadie v. Semler* (1990), 66 Ohio App. 3d 540; *Fulwiler v. Schneider* (1995), 104 Ohio App. 3d 398.

{¶7} Pursuant to R.C. 2743.02(A)(1), the state may be 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. Department of Rehabilitation & Cor.* (1991), 60 Ohio St. 3d 107. Evidence has been presented to show plaintiff was falsely imprisoned for a period of eighteen days.

{¶8} Damages for false imprisonment based on the intentional

confinement of a prisoner beyond the expiration of his sentence are to be determined in accordance with common law as opposed to the provisions of the wrongful imprisonment statute, specifically R.C. 2743.48(E)(2).¹ *Corder v. Ohio Dept. of Rehab. & Corr.* (1996), 114 Ohio App. 3d 360. Consequently, damages for loss of freedom and emotional distress are recognizable. However, these damages may be calculated by using the statutory formula in R.C. 2743.48(E)(2) as a guide given the elemental problem in determining damage amounts for loss of freedom and emotional injuries. *Corder*, id. In the present claim, plaintiff is entitled to damages for his loss of freedom and emotional injuries based on his eighteen day post sentence expiration confinement. The 10th District Court of Appeals stated in *Rainey v. Lorain Correctional Facility* (1997), 121 Ohio App. 3d 428, “. . . plaintiff’s emotional injuries were compensable as an element of damages for his false imprisonment. Indeed, the measure of damages for false imprisonment is such sum as will reasonably compensate the plaintiff for the wrong done him, which may include the injury to his feelings, damage to his reputation, other elements which combined to make up the injury naturally flowing from the wrong.” at 432. Plaintiff in the instant claim is certainly entitled to damages to compensate him for the wrong done.

{¶9} Furthermore, plaintiff may recover damages for work loss in a claim of this type providing he can demonstrate he had work loss. Plaintiff asserted he sustained work loss from a job paying \$12.00 per

¹ R.C. 2743.48(E)(2) provides:

In a civil action as described in division (D) of this section, upon presentation of requisite proof to the court, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

(a) The amount of any fine or court costs imposed and paid, and the reasonable attorney’s fees and other expenses incurred by the wrongfully imprisoned individual in connection with all associated criminal proceedings and appeals, and, if applicable, in connection with obtaining his discharge from confinement in the state penal or reformatory institution.

(b) For each full year that he was imprisoned in the state correctional institution for the offense of which he was found guilty, twenty-five thousand dollars, and for each part of a year that he was so imprisoned, a pro-rated share of twenty-five thousand dollars.

hour.

{¶10} The credibility of witnesses and the weight attributable to their testimony are primarily matters for the trier of fact. *State v. DeHass* (1967), 10 Ohio St. 2d 230, paragraph one of the syllabus. The court is free to believe or disbelieve, all or any part of each witness's testimony. *Steve v. Antill* (1964), 176 Ohio St. 61. The trier of fact in this claim believes plaintiff incurred some work loss as a result of his false imprisonment. Concomitantly, the trier of fact finds plaintiff experienced damage for loss of freedom and emotional distress. Defendant is liable to plaintiff for these damages set at a total of \$2,000.00, plus the \$25.00 filing fee.

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

{¶12} IT IS ORDERED THAT:

{¶13} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶14} 2) Defendant (Department of Rehabilitation and Correction) pay plaintiff (Timothy R. Letso) \$2,025.00 and such interest as is allowed by law;

{¶15} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

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