

[Cite as *Likes v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-3339.]

IN THE COURT OF CLAIMS OF OHIO

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RONALD J. LIKES :  
:  
Plaintiff : CASE NO. 2004-10566  
Judge J. Craig Wright  
v. : Magistrate Steven A. Larson  
  
OHIO DEPARTMENT OF : ENTRY GRANTING DEFENDANT'S  
REHABILITATION AND CORRECTION : MOTION FOR SUMMARY JUDGMENT  
:  
Defendant  
: :

{¶1} On May 25, 2005, defendant filed a motion for summary judgment pursuant to Civ.R. 56(C). Plaintiff filed a response on June 13, 2005. Defendant's motion is now before the court on a non-oral hearing pursuant to L.C.C.R. 4(D).

{¶ 2} Civ.R. 56(C) states, in part, as follows:

{¶ 3} "\*\*\* Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that 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, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor. \*\*\*" See, also, *Williams v. First United Church of Christ*

(1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶ 4} Plaintiff is an inmate currently in the custody and control of defendant pursuant to R.C. 5120.16 at the Richland Correctional Institution in Mansfield, Ohio. Plaintiff was initially incarcerated in May 2003 after being convicted of robbery with a firearm specification in the Huron County Court of Common Pleas. Plaintiff was sentenced to seven years imprisonment for his crimes.

{¶ 5} Plaintiff alleges that when he was handed over to the control and custody of the Department of Rehabilitations and Corrections he was not provided with a "Certified Copy of the Criminal Appearance Docket \*\*\*." (Complaint p. 4.) Plaintiff now asserts that this alleged procedural anomaly entitles him to be released from incarceration.

{¶ 6} To the extent that plaintiff alleges that his incarceration violates his rights guaranteed under the Ohio or U.S. Constitutions, this court lacks jurisdiction to consider those claims. See, e.g., *Thompson v. Southern State Community College* (June 15, 1989), Franklin App. No. 89AP-114; cf. *NCAA v. Tarkanian* (1988), 488 U.S. 179; *White v. Ohio Dept. of Rehab. and Corr.* (Dec. 22, 1992), Franklin App. No. 92AP-1229. Thus, defendant is entitled to judgment as a matter of law as to plaintiff's constitutional claims.

{¶ 7} To the extent that plaintiff's complaint states a claim for relief for false imprisonment, the elements of that claim are: (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; *Bennet v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St. 3d 107. However, "an action for false imprisonment cannot be maintained

where the wrong complained of is imprisonment in accordance with the judgment or order of a court, unless it appear that such judgment or order is void." *Bennet*, p. 111, citing *Diehl v. Friester* (1882), 37 Ohio St. 473. Plaintiff admits in paragraph one on page four of his complaint that he was convicted and sentenced to seven years in prison to begin in 2003. Plaintiff has not provided the court with any factual or legal basis to support his claim that a procedural error occurred. Moreover, even if plaintiff can establish a procedural error, such an error has no jurisdictional impact upon the sentencing order of the Huron County Court of Common Pleas. Thus, it is impossible for plaintiff to meet the elements of false imprisonment.

{¶ 8} To the extent that plaintiff alleges a claim for wrongful imprisonment in Ohio, plaintiff has presented no evidence that he followed the procedure set forth R.C. 2743.48(A)(4) and 2305.02.

{¶ 9} For the foregoing reasons, it is clear that no genuine issue of material fact exists in this case, and defendant is entitled to judgment as a matter of law. Defendant's motion for summary judgment is GRANTED. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

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J. CRAIG WRIGHT  
Judge

Entry cc:

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Plaintiff, Pro se

Velda K. Hofacker Carr  
Assistant Attorney General

Attorney for Defendant

Case No. 2004-10566

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ENTRY

150 East Gay Street, 23rd Floor  
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