

[Cite as *Chavis v. Ohio Dept. of Rehab. & Corr.*, 2005-Ohio-6589.]

IN THE COURT OF CLAIMS OF OHIO

CARLOS E. CHAVIS	:	
Plaintiff	:	
v.	:	CASE NO. 2005-03482-AD
OHIO DEPARTMENT OF REHABILITATION AND CORRECTIONS	:	<u>MEMORANDUM DECISION</u>
Defendant	:	
: : : : : : : : : : : : : : : :		

{¶ 1} Plaintiff, Carlos E. Chavis, a former inmate under the custody and control of defendant, Department of Rehabilitation and Correction, has alleged he was falsely imprisoned beyond the expiration of his prison sentence. Plaintiff asserted he was supposed to be released from custody on February 1, 2005, but was held by defendant until February 9, 2005. According to plaintiff, he was knowingly held by defendant for an eight day period beyond the expiration of his prison sentence. Therefore, plaintiff filed this claim seeking to recover \$1,066.68 in damages for his alleged false imprisonment.

{¶ 2} In his complaint, plaintiff presented the chronological time frame for his claim. Plaintiff related he appeared in the Cuyahoga County Court of Common Pleas on May 21, 1998, and entered a guilty plea on two counts of felonious assault and one count of failure to comply. On June 18, 1998, plaintiff was sentenced to serve a term of seven years for each count of felonious assault and an eighteen month term for the failure to comply count. All sentences were ordered to run concurrently and plaintiff was to receive jail-time credit for time already served. Plaintiff

originally received a grant of thirteen days jail-time credit, but on or about July 21, 1998, the jail-time credit grant was revised to ninety days. Plaintiff also asserted he contested this ninety day grant with the sentencing court (August 26, 1998), arguing he should be entitled to a grant of ninety-six days of jail-time credit. Plaintiff stated he was successful in his petition for additional jail-time credit and notification of the six days added credit was received on or about October 15, 1998. Plaintiff, who served the bulk of his sentence at defendant's Grafton Correctional Institution ("Grafton"), maintained that he had been informed (on or about March 4, 2004) by Grafton personnel his sentence was due to expire on February 11, 2005. Subsequently, plaintiff noted he was advised by Ms. R. Williams of the Records Office staff at Grafton that his expiration of sentence and release date was set at February 17, 2005, because of a discrepancy over verified jail-time credit.

{¶ 3} Plaintiff explained, when he learned about the change of his prison release date, he immediately instituted action to verify how much jail-time credit he was entitled to receive. Plaintiff submitted a copy of an update of his inmate file dated October 15, 1999, and compiled by defendant. This file lists a jail-time credit for plaintiff of ninety-six days. A similar document dated July 21, 1998, records a ninety day jail-time credit for plaintiff.

In response to plaintiffs inquiry about the subsequent change in jail-time credit back to ninety days from ninety-six days, defendant's Record Supervisor, Liann Bower, wrote plaintiff on June 14, 2004, informing him he was to receive ninety days of jail-time credit. In this correspondence, Bower noted: "[y]our Judge ordered the Sheriff's Department to calculate your jail time credit and provide us with the information. According to the Sheriff's letter, you have a total of 90 days jail credit." Plaintiff

submitted another document dated July 7, 2004, referenced as his booking history presumably issued by the Cuyahoga County Sheriff's Office. The document lists plaintiff's booking date as April 2, 1998, and his release date as July 1, 1998, along with an unidentified hand written notation pointing out plaintiff's total jail-time credit should be ninety-one days. Plaintiff did not produce any documents from the sentencing court verifying the precise amount of jail-time credit he was granted. Plaintiff did submit a document from the Euclid City Jail dated July 14, 2004, which reflected plaintiff was incarcerated in that jail "from 3/27/98 to 2/4/98." The trier of fact is unable to ascertain the meaning of this document, although plaintiff proposed the "2/4/98" date was inverted and was according to plaintiff intended to read "4/2/98." Plaintiff did include a document identified as a Docketing Journal from the Cuyahoga County Court of Common Pleas. This document contains listed information referencing plaintiff's arrest date in Euclid as March 27, 1998 and his bindover date as April 2, 1998, with a noted caption displaying seven jail days as of the bindover date. It appears from the documents presented plaintiff was incarcerated in either the Euclid City Jail or the Cuyahoga County Jail for a continuing time from March 27, 1998, to July 1, 1998. Plaintiff asserted this time frame represents ninety-eight days and he should have therefore, been entitled to receive ninety-eight days of jail-time credit applied against his seven-year sentence. The trier of fact finds the time frame from March 27, 1998, to July 1, 1998, reflects a period of ninety-seven or ninety-six days depending on how jail-time is calculated by the official authority.

{¶ 4} On July 26, 2004, plaintiff filed a motion for jail-time credit with the Cuyahoga County Court of Common Pleas requesting he be granted a total of ninety-eight days jail time credit consistent

with his jail incarcerations from March 27, 1998, to July 1, 1998.

Plaintiff related his July 26, 2004, motion was granted on August 6, 2004. A copy of the ruling on this motion was apparently sent to plaintiff on or about August 6, 2004. Plaintiff denied receiving a copy of the ruling on his motion from the Cuyahoga County Court of Common Pleas. Consequently, plaintiff did not submit any documentation from the court concerning amended jail-time credit reflecting a grant of additional days credited.

{¶ 5} Plaintiff contended defendant received information from the sentencing court granting him at least ninety-six days jail time credit to be applied against his sentence. Plaintiff further contended defendant, unilaterally, without any authority modified his jail-time credit grant to ninety days. Plaintiff insisted he was entitled to a total reduction in his prison term of one hundred forty-eight days, which includes an undisputed fifty days of earned credit at the institution and a disputed ninety-eight days of jail-time credit. Applying this one hundred forty-eight days of credit against his seven-year prison term, plaintiff reasoned he was due to be released on February 1, 2005. Plaintiff was released from incarceration on February 9, 2005. Plaintiff reasserted he was knowingly held by defendant beyond the expiration of his sentence for a period of eight days.

{¶ 6} Defendant denied knowingly confining plaintiff beyond the expiration date of his sentence. Defendant explained plaintiff was admitted into the state prison system on July 1, 1998, under a seven-year prison sentence with a grant of ninety-one days jail-time credit to be applied against his sentence. Under defendant's calculation, plaintiff was credited with ninety days upon admission, because, "[a]n inmate's date of admission is credited against the service of his term of imprisonment." At sometime in October 1998, defendant modified plaintiff's jail-time credit to

ninety-six days without receiving any type of modifying entry from the sentencing court. Defendant acknowledged the ninety-six day modification was an error and on April 5, 2004, upon administrative review, the error was corrected when plaintiff's jail-time credit was reverted back to the authorized ninety days.

{¶ 7} After plaintiff filed his motions with the sentencing court seeking additional jail-time credit, the court ordered the Cuyahoga County Sheriff's Department to calculate plaintiff's total jail-time credit and notify defendant. On August 12, 2004, the Cuyahoga County Sheriff sent defendant notification plaintiff was entitled to jail-time credit for time spent in the Cuyahoga County Jail from April 2, 1998 to July 1, 1998. Defendant noted these dates of confinement correspond with the dates of confinement listed when plaintiff originally entered defendant's custody. Defendant, therefore, did not receive any authorized modification of plaintiff's jail-time credit. Neither the sentencing court nor the Cuyahoga County Sheriff's Department addressed the issue raised by plaintiff regarding his entitlement to jail-time credit for time spent in the Euclid City Jail. Defendant was not authorized to grant plaintiff jail-time credit. Defendant related plaintiff was released from custody on February 9, 2005, upon expiration of his sentence after deducting all authorized jail-time credit and days of earned credit awarded by defendant. Defendant maintained all authorized jail-time credit was applied to plaintiff's reduction of time served at the institution.

{¶ 8} Defendant contended plaintiff has failed to prove any liability in this matter. Defendant stated, "[t]he Department of Rehabilitation is charged with crediting any *** jail time credit granted by the sentencing court." In the instant action, defendant applied all jail-time credit granted by the sentencing court. As defendant pointed out, the court in *State, ex rel. Corder v. Wilson*

(1991), 68 Ohio App. 3d 567, at 572 stated:

{¶ 9} "[t]he law has been and is still clear that, although the Adult Parole Authority is the body who credits the time served, it is the sentencing court who makes the determination as to the amount of time served by the prisoner before being sentenced to imprisonment in a facility under the supervision of the Adult Parole Authority."

{¶ 10} Defendant asserted it can only apply the amount of jail-time credit authorized by the sentencing court. Defendant contended it is not charged with a duty to initially award jail-time credit or determine additional jail-time credit is merited. Defendant maintained, that duty is reserved to the sentencing court, pursuant to R.C. 2949.12 under the direction of R.C. 2967.191. Defendant related all obligations owed to plaintiff on the part of the Department of Rehabilitation and Correction were met. Defendant argued it cannot apply additional jail-time credit that has not been granted by the sentencing court.

{¶ 11} In his response to the investigation report, plaintiff disputed defendant's contention that all obligations owed to him were followed. Plaintiff insisted he was falsely imprisoned by defendant beyond the expiration of his sentence, although plaintiff did not produce any evidence from the sentencing court proving defendant received any additions to the jail-time credit granted. Plaintiff argued defendant improperly reduced his listed jail-time credit from ninety-six days to ninety days, despite the fact all documents from the sentencing court advised plaintiff was entitled to a maximum ninety days of credit. Plaintiff related defendant had no right to modify this ninety-six days compilation, notwithstanding the fact defendant had no legal authority to award jail-time credit. Defendant has the right and duty to maintain accurate records reflecting authorized grants of jail-time credit.

Plaintiff related "[t]he heart and soul of plaintiff's complaint is based on jail time credit he did not receive for time period of confinement in the Euclid City Jail." Plaintiff did not submit any evidence establishing defendant received any notice from the sentencing court awarding jail-time credit for time served in the Euclid City Jail.

{¶ 12} "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. and Corr.* (1991), 60 Ohio St. 3d 107, 109, quoting *Feliciano v. Kreiger* (1977), 50 Ohio St. 2d 69, 71, quoting 1 Harper & James, *The Law of Torts* (1956), 226, Section 3.7. Additionally, "'each day's continuance of the body of the person in custody is a distinct trespass, and may be treated as such.'" quoting *State ex rel. Kemper v. Beecher* (1847), 16 Ohio 358, 363.

{¶ 13} "In the absence of an intervening justification, a person may be found liable for the tort of false imprisonment if he or she intentionally continues to confine another despite knowledge that the privilege initially justifying the confinement no longer exists." *Bennett*, at paragraph one of the syllabus. Also, "pursuant to R.C. 2743.02(A)(1), the state may be held liable for the false imprisonment of its prisoners." *Bennett*, at paragraph two of the syllabus. 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[s] that such judgment or order is void." *Bennett*, *id.*, at 111; *Tymcio v. State* (1977), 52 Ohio App. 2d 298, 303.

{¶ 14} Although defendant is required to credit an inmate with jail time served in calculating a term of actual confinement, "it is the trial court that makes the factual determination as to the

number of days of confinement that {an inmate} is entitled to have credited toward his sentence." *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St. 3d 476, 2003-Ohio-2061. Therefore, plaintiff was entitled to only the amount of jail time credit that the trial court determined was appropriate. On July 21, 1998, it was determined plaintiff was entitled to ninety days jail-time credit. In a reevaluation in August, 2004, it was again determined plaintiff was entitled to ninety days jail-time credit.

{¶ 15} Based upon the facts set forth, it is clear defendant incarcerated plaintiff pursuant to a lawful sentencing order and then released plaintiff upon expiration of his sentence after deducting time for jail-time credit granted. Liability for false imprisonment does not attach under these circumstances. Defendant did not knowingly or intentionally confine plaintiff beyond the expiration of his sentence. See *Mickey v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 02AP-539, 2003-Ohio-90.

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CARLOS E. CHAVIS :
Plaintiff :
v. : CASE NO. 2005-03482-AD
OHIO DEPARTMENT OF : ENTRY OF ADMINISTRATIVE
REHABILITATION AND CORRECTIONS : DETERMINATION
Defendant :
: : : : : : : : : : : : : : : :

Having considered all the evidence in the claim file and, for the reasons set forth in the memorandum decision filed concurrently herewith, judgment is rendered in favor of defendant. 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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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