

Court of Claims of Ohio

The Ohio Judicial Center
65 South Front Street, Third Floor
Columbus, OH 43215
614.387.9800 or 1.800.824.8263
www.cco.state.oh.us

KEVIN T. COLSTON

Plaintiff

v.

DEPT. OF REHABILITATION AND
CORRECTION

Defendant

Case No. 2006-07881-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶1} Plaintiff, Kevin T. Colston, an inmate in the custody of defendant, Department of Rehabilitation and Correction, filed this action alleging he was falsely imprisoned beyond the expiration of his criminal sentence. Plaintiff stated, “I was held in Marion Correctional Institution twenty-two (22) days past my release date due to negligent delay of the Cuyahoga County Sheriff’s Dept. (Clerk of Courts) in forwarding my credit for time served.”

Plaintiff explained he was serving a six month sentence at defendant’s institution when he filed a motion for jail time credit on October 1, 2004. The motion was subsequently granted, and, according to plaintiff, his release date from custody when applying his jail time credit should have been December 30, 2004. Plaintiff asserted that due to delays by defendant he was not released until January 20, 2005, twenty-two days past his projected release date. On December 20, 2006, plaintiff filed this complaint seeking to recover \$2,200.00 in damages for stress and mental anguish based on a claim he was falsely imprisoned by defendant for a twenty-two days period. The filing fee was waived.

{¶2} Defendant argued plaintiff has failed to offer sufficient proof to support his claim for false imprisonment. Defendant maintained plaintiff was incarcerated, “in accordance with the judgment of the sentencing court.” Plaintiff began serving time at defendant’s institution on August 9, 2004, and remained incarcerated until January 20, 2005, when defendant received an entry from the sentencing court granting plaintiff

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additional jail time credit. Defendant denied plaintiff was intentionally confined beyond any lawful term of incarceration. Defendant denied having any knowledge that its privilege justifying the confinement of plaintiff no longer existed.¹ Defendant insisted, at all times plaintiff was incarcerated in accordance with the mandate of the sentencing court, was not intentionally confined beyond the expiration of his sentence, was promptly released when the entry was received granting additional jail time credit, and consequently no liability based on false imprisonment may attach.

{¶3} A copy of the sentencing court entry granting plaintiff jail time credit was submitted. This entry, dated January 18, 2005, granted plaintiff thirty-three days jail time credit to be applied against his sentence. A copy of the entry was sent to defendant's institution and was received on January 20, 2005, whereupon plaintiff was immediately released from custody. Plaintiff argued in his response to defendant's investigation report that defendant, through the Ohio Parole Authority, is charged with granting and applying jail time credit when calculating release dates from criminal sentencing. Therefore, plaintiff insisted defendant was ultimately responsible for his incarceration beyond the expiration of his sentence.

{¶4} R.C. 2743.16(A) provides in relevant part:

{¶5} "**** civil actions against the state permitted by sections 2743.01 to 2743.20 of the Revised Code shall be commenced no later than two years after the date of the accrual of the cause of action or *within any shorter period that is applicable to similar suits between*

¹ Defendant argued plaintiff failed to establish any elements to support his claim citing *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St. 3d 107 and *Corder v. Ohio Dept. of Rehab. & Corr.* (1994), 94 Ohio App. 3d 315.

"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*, at 109 quoting 1 Harper & James, *The Law of Torts* (1956), 226, Section 3.7.

"[T]he elements of wrongful imprisonment of an inmate beyond a law term of incarceration would be: (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*, at 318.

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private parties." (Emphasis added.) The applicable statute of limitations for a cause of action which alleges false imprisonment is R.C. 2305.11(A), and it requires an action for false imprisonment to be commenced within one year after its accrual. *Mickey v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 02AP-539, 2003-Ohio-90; *Haddad v. Dept. of Rehab. & Corr.*, Franklin App. No. 01AP-1130, 2002-Ohio-2813.

{¶6} It is undisputed that plaintiff was released by defendant on January 20, 2005. Plaintiff complaint was not filed until December 20, 2006. As a general rule, a claim for false imprisonment accrues upon plaintiff's release from confinement. *Haddad*, supra. Plaintiff's claim for false imprisonment accrued upon his final release on January 20, 2005, and his complaint was not filed within one year thereafter.

{¶7} For the foregoing reasons, the court finds that plaintiff's claim for false imprisonment is barred by the one-year statute of limitations and accordingly, judgment shall be rendered in favor of defendant.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

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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RDK/laa
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