

# Court of Claims of Ohio

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KEVIN BRADLEY

Case No. 2006-01581

Plaintiff

Judge J. Craig Wright  
Magistrate Matthew C. Rambo

v.

MAGISTRATE DECISION

OHIO DEPARTMENT OF  
REHABILITATION AND CORRECTION

Defendant

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{¶1} On January 3, 2007, plaintiff filed a motion for summary judgment. On January 5, 2007, defendant filed a cross-motion for summary judgment. On January 17, 2007, defendant filed a response to plaintiff's motion, and on January 24, 2007, plaintiff filed a response to defendant's motion. On February 15, 2007, the court granted plaintiff leave to supplement his complaint. On March 16, 2007, defendant filed a motion for summary judgment on plaintiff's supplemental claims. On March 26, 2007, an oral hearing was held at the London Correctional Institution (LoCI). At the hearing, plaintiff personally served upon counsel for defendant and the court a response to defendant's March 16, 2007, motion, and his own motion for summary judgment on his supplemental claims. On April 5, 2007, defendant filed a response to plaintiff's March 26, 2007 motion for summary judgment.

{¶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

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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, *Gilbert v. Summit County*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

{¶4} On July 25, 2001, plaintiff was sentenced by the Champaign County Court of Common Pleas to three years of community control. On February 7, 2002, plaintiff was sentenced to consecutive terms of 11 months and 17 months for violating the conditions of community control. Plaintiff was delivered into defendant's custody and control at the Noble Correctional Institution (NCI) that same day. Defendant has provided the court with a properly authenticated copy of the journal entry and notice of confinement. On January 17, 2003, the Second District Court of Appeals reversed the judgment of the court of common pleas and remanded the case for resentencing as a result of violation of the condition of community control. On March 3, 2003, plaintiff was transferred from defendant's custody into the custody of the Champaign County Sheriff's Department for his resentencing hearing. On March 13, 2003, plaintiff was resentenced by the Champaign County Court of Common Pleas to five years of community control.

{¶5} In his initial motion for summary judgment, plaintiff asserts that he was falsely imprisoned from February 7, 2002, to March 3, 2003, inasmuch as the Second District Court of Appeals found that he was improperly sentenced by the Champaign County Court of Common Pleas. Defendant asserts in its cross-motion that plaintiff was imprisoned pursuant to a valid court order and thus defendant is not liable for false imprisonment as a matter of law.

{¶6} In Ohio, the elements for a claim for false imprisonment 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. and Corr.*(1994), 94 Ohio App.3d 315, 318. However, "an action for

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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.” *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St.3d 107, 111, quoting *Diehl v. Friester* (1882), 37 Ohio St. 473, 475.

{¶7} Defendant cannot be held liable for false imprisonment under circumstances where it “had no knowledge, nor could it have, that the court of appeals would eventually find the judgment void \*\*\*.” *Fryerson v. Ohio Dept. of Rehab. and Corr.* Franklin App. No. 02AP-1216, 2003-Ohio-2730. Upon review of the sentencing entry and the commitment papers attached to the affidavit of Mary Oakley and filed with defendant’s January 5, 2007, motion, the court does not perceive any error which would draw into question the validity of the order. Thus, defendant cannot be held liable for false imprisonment.

{¶8} In his supplemental pleading, plaintiff asserts that defendant has improperly deemed him ineligible for certain job training programs due to his “false imprisonment.” Plaintiff also claims that, pursuant to its own policies, defendant should have paid him a \$75 release payment. However, plaintiff was paid \$28, which was the balance of his inmate account at the time of his release in March 2003. Defendant argues that decisions made concerning eligibility for job training programs and payments made upon release involve a high degree of official discretion and that, therefore, defendant is immune from liability.

{¶9} Defendant provided the court with the affidavit of Daniel Bachmann, the cashier at NCI. Bachmann stated that inmate accounts are governed by policies stated in the Cashier’s Manual, and that pursuant to those policies, plaintiff was only entitled to the balance of his inmate account at the time of his release, and not a \$75 release payment.

{¶10} The Tenth District Court of Appeals has stated that “[T]he language in R.C. 2743.02 that ‘the state’ shall ‘have its liability determined \*\*\* in accordance with the same rules of law applicable to suits between private parties, \*\*\*’ means that the state cannot be sued for its legislative or judicial functions, or the exercise of an executive function involving

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a high degree of official judgment or discretion.” *Deavors v. Dept. of Rehab. and Corr.* (May 20, 1999), Franklin App. No. 98AP-1105; citing *Reynolds v. State* (1984), 14 Ohio St.3d 68, 70. The court finds that defendant’s decisions relating to plaintiff’s eligibility for job training programs and the amount of money that he may be given upon release involve a high degree of official discretion. Accordingly, plaintiff’s claims based upon those decisions must fail.

{¶11} Based upon the foregoing analysis, it is recommended that plaintiff’s January 3, 2007, and March 26, 2007, motions for summary judgment be denied, and defendant’s January 5, 2007, and March 16, 2007, motions for summary judgment be granted.

*A party may file written objections to the magistrate’s decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court’s adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

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MATTHEW C. RAMBO  
Magistrate

cc:

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MR/cmd	

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