

# 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

GREGORY W. MCDONALD

Case No. 2007-05105-AD

Plaintiff

Deputy Clerk Daniel R. Borchert

v.

MEMORANDUM DECISION

DEPARTMENT OF REHABILITATION  
AND CORRECTIONS

Defendant

{¶1} Plaintiff, Gregory W. McDonald, a former inmate, incarcerated under the custody of defendant, Department of Rehabilitation and Correction (“DRC”), filed this complaint alleging he was falsely imprisoned by DRC beyond the expiration of his criminal sentence. Plaintiff observed his release date from prison was supposed to be January 8, 2006. However, plaintiff was not released from custody until February 6, 2006. Therefore, plaintiff reasoned he was held by DRC for a period of thirty days after his release date, an act which plaintiff contends constitutes false imprisonment. Plaintiff filed this action on May 14, 2007, requesting \$2,500.00 in damages for, “loss of work, loss of freedom emotional injury.” Plaintiff was not required to pay a filing fee.

{¶2} Defendant related plaintiff, “was admitted to DRC on December 30, 2005 to serve two concurrent eight month prison terms under Richland County cases 2000CR0671 and 2001CR0760.” Plaintiff received jail time credit of 96 days in case 2000CR0671. Defendant pointed out the entries from the Richland County Common Pleas Court granting jail time credit in the two criminal cases contained duplicate days of credit. Defendant, taking the duplicate jail time credit grants into account, calculated plaintiff’s original release date as May 30, 2006, “based on the grant of 92 days jail time credit.” On February 6, 2006, an additional entry regarding jail time credit for plaintiff was received from the Richland County Common Pleas court. This entry granted

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plaintiff an additional 146 days of jail time credit. Based on the receipt of this entry, plaintiff's prison term was recalculated prompting his release from confinement on the same day the additional grant of jail time credit was received, February 6, 2006.

{¶3} Defendant argued plaintiff failed to prove the elements of false imprisonment because at all times up to February 6, 2006, plaintiff was held in custody in accordance with a valid judgment entry of a sentencing court. Defendant contended DRC can only be held liable under a false imprisonment rationale if an inmate such as plaintiff is knowingly held beyond the expiration of his sentence. Defendant stated plaintiff, "was not intentionally confined after the institution had knowledge that the privilege to confine had expired." Defendant requested plaintiff's claim be denied. Defendant did not address any other issues presented beyond the liability matter presented in this claim.

{¶4} Plaintiff filed a response citing cases where this court has addressed damages based on false imprisonment liability. In the response it was noted plaintiff had been held beyond the expiration of his sentence, but did not offer evidence to prove defendant had any knowledge plaintiff's incarceration was being continued after his prison term expired.

{¶5} "False imprisonment occurs when a person confines another intentionally

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‘without lawful privilege and against his consent within a limited area for any appreciable time, however short.’” *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St. 3d 107, 573 N.E. 2d 633 at 109, quoting 1 Harper & James, *The Law of Torts* (1956), 226, Section 3.7. However, plaintiff’s claim for false imprisonment may only be maintained if defendant intentionally continued to confine him with the knowledge that his sentence had expired and therefore, no privilege justifying continuing confinement existed. See *Mickey v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2001-12215, 2002-Ohio-3233. In the instant claim, plaintiff was immediately released from confinement when defendant received notice his sentence had in actuality expired due to the additional award of jail time credit. Under these facts and circumstances, plaintiff as a matter of law is precluded from recovery of damages from defendant based on an action grounded in false imprisonment. See *Lucy v. Richland Correctional Inst.*, Ct. of Cl. No. 2002-03368-AD, jud; 2002-Ohio-4621.

{¶16} The court should point out the instant action is barred by the statute of limitations, as found in R.C. 2743.16. Neither plaintiff nor defendant addressed the statute of limitations issue.

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

{¶18} “\*\*\* civil actions against the state permitted by sections 2743.01 to

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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 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.

{¶9} It is undisputed that plaintiff was released by defendant on February 6, 2006. Plaintiff's complaint was not filed until May 14, 2007. As a general rule, a claim for false imprisonment accrues upon plaintiff's release from confinement. *Haddad*, Franklin App. No. 01AP-1130, 2002-Ohio-2813. Plaintiff's claim for false imprisonment accrued upon his final release on February 6, 2006 and his complaint was not filed within one year thereafter.

{¶10} 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. The court has previously ruled the one year statute of limitations is applicable to claims of false imprisonment even when the matter

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is not raised in defense. See *Colston v. Dept. of Rehab. and Corr.*, Ct. of Cl. No. 2006-07881, jud; 2007-Ohio-1931.

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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.

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DANIEL R. BORCHERT  
Deputy Clerk

Entry cc:

James L. Blunt II  
105 Sturges Avenue  
Mansfield, Ohio 44903

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

RDK/laa  
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