

[Cite as *Dentigance v. Adult Parole Auth.*, 2008-Ohio-4211.]

# 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  
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WILLIE DENTIGANCE

Plaintiff

v.

ADULT PAROLE AUTHORITY

Defendant

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Case No. 2005-04373

Judge J. Craig Wright  
Magistrate Lee Hogan

MAGISTRATE DECISION

{¶ 1} Plaintiff filed this action alleging a claim of false imprisonment. Defendant filed an admission of liability and the case proceeded to trial on the issue of damages.

{¶ 2} Plaintiff contends that he was falsely imprisoned at Lorain Correctional Institution for a period of 77 days, from February 2004 to May 2004, and has sought compensation in the amount of \$1,000 per day or, at a minimum, \$50,000. Although defendant admitted liability, it disputes the number of days and the amount of compensation claimed by plaintiff.

{¶ 3} With regard to the number of days in question, defendant insists that it has admitted only to a period of 74 days, the difference resulting from the parties' disagreement as to the date that plaintiff was released. Plaintiff testified that he recalled the date of his release as being May 7, 2004, and relied upon an Adult Parole Authority (APA) Sanction Report that was signed by him,<sup>1</sup> his parole officer, and an APA supervisor on May 7, 2004, to document that plaintiff had received the report and understood the sanctions that were to be imposed. (Plaintiff's Exhibit 1.) Defendant relied upon the testimony of Alison Cantley, plaintiff's parole officer, and an Offender Status History, or "DOTS" report, that documented plaintiff's incarceration from its inception on October 26, 1981, through his release on May 4, 2004, and thereafter. (Defendant's Exhibit H.) Upon review, the court finds that the weight of the evidence

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<sup>1</sup>The court notes that the document, and others submitted at trial, refer to "Willie Jackson." However, plaintiff admitted that the name was an alias, and that his birth name is Willie Dentigance, as set forth in the above caption.

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establishes that plaintiff was falsely imprisoned by defendant for a period of 74 days, rather than the 77 days that plaintiff attempted to establish.

{¶ 4} With regard to the amount of compensation sought by plaintiff, it is conceded that plaintiff was a person who was falsely imprisoned beyond his lawful term of incarceration as opposed to an innocent person who was “wrongfully imprisoned” as defined under R.C. 2743.48. Specifically, plaintiff committed criminal offenses while on parole and was legally re-incarcerated; however, he was entitled to a parole violation hearing within ten days. Due to the oversights to which defendant has admitted, the hearing was not held within the required time limit. In cases of false imprisonment, damages are to be determined in accordance with the common law as opposed to the statutory framework of R.C. 2743.48. *Corder v. Ohio Dept. of Rehab. & Corr.* (1996), 114 Ohio App.3d 360, 365. Thus, “the measure of damages for false imprisonment is such sum as will reasonably compensate the plaintiff for the wrong done him, which may include the injury to his feelings, damage to his reputation, other elements which combined to make up the injury naturally flowing from the wrong.” *Rainey v. Lorain Correctional Facility* (1997), 121 Ohio App.3d 428, 432. Nevertheless, the court may consider, but is not bound by, R.C. 2743.48 in determining an award of damages. *Corder*, supra, at 366.

{¶ 5} R.C. 2743.48(E)(2) entitles an innocent person who is found to be wrongfully imprisoned under that statute to receive compensation equaling the total of each of the following amounts:

{¶ 6} “\* \* \*

{¶ 7} “(b) For each full year of imprisonment in the state correctional institution for the offense of which the wrongfully imprisoned individual was found guilty, *forty thousand three hundred thirty dollars* \* \* \* and for each part of a year of being so imprisoned, a pro-rated share of forty thousand three hundred thirty dollars \* \* \* ,

{¶ 8} “(c) Any loss of wages, salary, or other earned

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income that directly resulted from the wrongfully imprisoned individual's arrest, prosecution, conviction, and wrongful imprisonment." (Emphasis added.)

{¶ 9} In terms of guidance, the most definitive measure of damages is that set forth under R.C. 2743.48(E)(2)(b) above. Pursuant to that section of the statute, an individual is entitled to compensation of at least \$40,330 per full year of wrongful imprisonment, or approximately \$110 per day. In applying that provision to cases of false imprisonment, this court has consistently held that the individual is entitled to compensation, but not at the full amount. For the most part, these cases have reduced the statutory amount by 50 percent which, in this case, is approximately \$55 per day. See, e.g., *Thompson v. Ohio Dept. of Rehab. and Corr.*, Ct. of Cl. No. 2006-02617, 2008-Ohio-3399; *Bay v. Ohio Dept. of Rehab. and Corr.*, Ct. of Cl. No. 2002-07231, 2004-Ohio-7296; *Wilson v. Ohio Dept. of Rehab. and Corr.*, Ct. of Cl. No. 2003-04406, 2004-Ohio-5922; *Rainey*, supra; *Corder*, supra. Based upon the evidence and testimony presented, the court finds the 50 percent reduction to be appropriate for this aspect of plaintiff's damages. Therefore, plaintiff is entitled to an award of \$4,088.25 for the 74 days of his false imprisonment (74 x \$55.25).

{¶ 10} Plaintiff is also entitled to compensation for lost wages. However, plaintiff must prove by a preponderance of the evidence that he sustained lost wages, salary or other income as a result of his false imprisonment. *Clark v. Ohio Dept. of Rehab. and Corr.* (2000), 104 Ohio Misc.2d 14, 17. The evidence submitted at trial demonstrates that, after his parole in March 2002, plaintiff's employment record was inconsistent. The longest period of employment was with Distillata, a water bottling company, beginning on January 16, 2003. Plaintiff was terminated from that job upon his arrest for a parole violation in September 2003. According to the deposition testimony of Jacquelyn Fertick, a 30-year employee of Distillata who maintained personnel files, plaintiff would not have been eligible for rehire at any time after his termination in September 2003. (Defendant's Exhibit I.) Plaintiff did not obtain other employment after the September 2003 incident, and was then arrested on drug trafficking charges in December 2003.

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The drug charges led to plaintiff's re-incarceration and the period of false imprisonment that gave rise to this case. Additionally, after plaintiff's release on May 4, 2004, he did not secure other employment and he was subsequently incarcerated for drug charges in late 2004. Upon review, the court finds that plaintiff failed to provide sufficient credible evidence to show that he incurred work loss.

{¶ 11} As noted above, plaintiff is also entitled to reasonable compensation for the wrong done to him, including injury to his feelings, damage to his reputation, or any other elements which naturally flowed from such wrong. Based upon the totality of the evidence, the court finds that plaintiff is entitled to an additional \$2,000 as compensation for mental distress stemming from the length of the false imprisonment and plaintiff's inability to correct his situation.

{¶ 12} Accordingly, the court concludes that plaintiff has proven by a preponderance of the evidence that he is entitled to an award in the total amount of \$6,113.25 for his false imprisonment which includes reimbursement for the \$25 filing fee. (\$4,088.25 + \$2,000 + \$25.) It is recommended that judgment be entered in that amount.

*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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LEE HOGAN  
Magistrate

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cc:

Willie Dentigance, #474-964 P.O. Box 8107 Mansfield, Ohio 44901	Jana M. Brown Assistant Attorney General 150 East Gay Street, 18th Floor Columbus, Ohio 43215-3130
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LH/cmd  
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