

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

MICHAEL SWITZER

Plaintiff

v.

OHIO DEPT. OF REHABILITATION AND CORRECTION

Defendant

Case No. 2007-08970-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

FINDINGS OF FACT

{¶ 1} 1) Plaintiff, Michael Switzer, a former inmate under the control of defendant, Department of Rehabilitation and Correction, asserted he was wrongfully held by defendant beyond the expiration of his criminal sentence; a period of fourteen days.

{¶ 2} 2) Plaintiff claimed damages in the amount of \$773.50, an amount representing a pro-rated one half share of the yearly statutorily mandated amount for a wrongfully imprisoned individual.¹ The \$25.00 filing fee was paid and plaintiff requested

¹ R.C. 2743.48(E)(2)(b) states:

“(2) In a civil action as described in division (D) of this section, upon presentation of requisite proof to the court, a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts.

“(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 of the adjusted amount determined by the auditor of state pursuant to section 2743.49 of the Revised Code, and for each part of a year of being so imprisoned, a pro-rated share of forty thousand three hundred thirty dollars or the adjusted amount determined by the auditor of state pursuant to section 2743.49 of the Revised Code.”

reimbursement of that amount along with his damage claim.

{¶ 3} 3) Defendant filed an investigation report admitting liability for falsely imprisoning plaintiff for a period of fourteen days. Defendant explained plaintiff's release date was scheduled for August 26, 2007, and plaintiff was actually released from incarceration on September 9, 2007. Defendant observed plaintiff should be entitled to damages in the amount of \$772.91, based on a pro-rated one half share of the yearly statutorily set damage amount for a wrongfully imprisoned individual pursuant to R.C. 2743.48(E)(2)(b) as calculated by defendant. Defendant's calculations based on a one half share of the daily statutory damage amount granted to a falsely imprisoned individual totaled \$55.21 a day. Plaintiff calculated this amount at \$55.25 a day. The trier of fact calculated the daily allowable amount to be \$55.25 a day.

CONCLUSION OF LAW

{¶ 4} 1) Plaintiff has proven a claim for false imprisonment. *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St. 3d 107, 573 N.E. 2d 633; *Corder v. Ohio Dept. of Rehab. & Corr.* (1996), 114 Ohio App. 3d 360, 683 N.E. 2d 121.

{¶ 5} 2) The standard measure of damages in a false imprisonment claim is based on one-half of the statutory formula provided in R.C. 2743.48(E)(2)(b). See *Raivey v. Lorain Corr. Fac.* (1997), 121 Ohio App. 3d 428, 700 N.E. 2d 90; *Clark v. Ohio Dept. of Rehab. & Corr.* (2000), 104 Ohio Misc. 2d 14, 727 N.E. 2d 986; *Bay v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2002-07231, 2004-Ohio-7296; *Stafford v. Correction Reception Center*, 2004-07000-AD, jud (reversed), 2004-Ohio-7085.

{¶ 6} 3) Based on the standards applied in accordance with precedent and the evidence of the wage loss, the court finds defendant liable to plaintiff in the amount of \$773.50, plus the \$25.00 filing fee which may be awarded as costs pursuant to R.C. 2335.19. See *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19, 587 N.E. 2d 990.

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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 plaintiff in the amount of \$798.50, which includes the filing fee. Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
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