

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

WALTER DAVISON

Plaintiff

v.

DEPARTMENT OF REHABILITATIONS AND CORRECTIONS

Defendant

Case No. 2008-01073-AD

Clerk Miles C. Durfey

MEMORANDUM DECISION

{¶ 1} Plaintiff, Walter Davison, filed this action alleging that he was falsely imprisoned by defendant, Department of Rehabilitation and Correction (DRC), for a period of seven days beyond the expiration of his criminal sentence. Plaintiff requested damages of “\$7.00 per hr 40 hr work week \$280.00 and/or \$769.00.” Apparently, plaintiff requests damages for work loss, loss of freedom, and emotional injuries. Payment of the filing fee was waived.

{¶ 2} On August 24, 2006, plaintiff was admitted into the custody of DRC to serve a prison sentence of one year for drug trafficking, having violated community control supervision imposed by the Cuyahoga County Court of Common Pleas. When plaintiff was first received into DRC custody, he was granted ten days credit to be applied against his one-year sentence. A copy of the Journal Entry (dated August 22, 2006) from the sentencing court granting ten days jail-time credit was submitted by defendant. On July 31, 2007, plaintiff filed a motion with the sentencing court for additional jail time credit. On August 13, 2007 plaintiff was released from prison and DRC custody with no post-release control. On October 15, 2007, two months after he

was released from DRC custody, plaintiff's motion for additional jail time credit was granted by the sentencing court. Plaintiff received a total of seventeen days in confinement credits pursuant to the document received from the sentencing court (copy submitted filed stamped October 24, 2007).

{¶ 3} "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 v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St. 3d 107, 109, 573 N.E. 2d 633, quoting 1 Harper & Jones, *The Law of Torts* (1956), 226, Section 3.7.

{¶ 4} 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.

{¶ 5} Although defendant is required to credit an inmate with jail time served in calculating a term of actual confinement, "it is the trial court that makes the factual determination as to the number of days of confinement that (an inmate) is entitled to have credited toward his sentence." *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St. 3d 476, 2003-Ohio-2061, 786 N.E. 2d 1286, ¶7. Therefore, plaintiff was entitled to only the amount of jail-time credit that the trial court determined was appropriate. On March 7, 2007, the trial court determined that plaintiff was entitled to ten days of jail-time credit. In a reevaluation, after plaintiff's release from incarceration, the trial court determined that on October 15, 2007, the plaintiff was entitled to a total of 17 days of jail-time credit. No evidence has been submitted to establish that defendant knew about any additional jail-time credit prior to plaintiff's release from prison.

{¶ 6} In order to prevail on his claim of false imprisonment plaintiff must show that: 1) his lawful term of confinement expired; 2) defendant intentionally confined him after the expiration, and 3) defendant had knowledge that the privilege initially justifying the confinement no longer existed. *Corder v. Ohio Dept. of Rehab. & Corr.* (1994), 94 Ohio App. 3d 315, 318, 640 N.E. 2d 879. However, "an action for false imprisonment cannot be maintained where the wrong complained of is imprisonment in accordance with the judgment or order of a court, unless it appears that such judgment or order is void." *Bennett*, 60 Ohio St. 3d at 111, 573 N.E. 2d 633, quoting *Diehl v. Friester* (1882),



37 Ohio St. 473, 475.

{¶ 7} In the instant claim, the facts establish that plaintiff was released from incarceration at the expiration of his sentence and after all known jail-time credit mandated by the sentencing authority was given against that prison term. Under these facts, plaintiff as a matter of law is precluded from recovery of damages from defendant based upon an action grounded in false imprisonment. See *Lucy v. Richland Correctional Inst.*, Ct. of Cl. No. 2002-03368-AD, jud; 2002-Ohio-4621.

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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.

MILES C. DURFEY
Clerk

Entry cc:

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RDK/laa
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