

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

JASEN THOMSON

Plaintiff

v.

STATE OF OHIO

Defendant

Case No. 2008-02371-WI

Judge J. Craig Wright
Magistrate Steven A. Larson

DECISION

{¶ 1} On February 19, 2008, plaintiff filed a claim for wrongful imprisonment pursuant to R.C. 2743.48.¹ Civ.R. 12(H)(3) states: “[W]henver it appears by

¹R.C. 2743.48 states, in relevant part:

“(A) As used in this section and section 2743.49 of the Revised Code, a ‘wrongfully imprisoned individual’ means an individual who satisfies each of the following:

“(1) The individual was charged with a violation of a section of the Revised Code by an indictment or information prior to, or on or after, September 24, 1986, and the violation charged was an aggravated felony or felony.

“(2) The individual was found guilty of, but did not plead guilty to, the particular charge or a lesser-included offense by the court or jury involved, and the offense of which the individual was found guilty was an aggravated felony or felony.

“(3) The individual was sentenced to an indefinite or definite term of imprisonment in a state correctional institution for the offense of which the individual was found guilty.

“(4) The individual's conviction was vacated or was dismissed, or reversed on appeal, the prosecuting attorney in the case cannot or will not seek any further appeal of right or upon leave of court,

suggestion of the parties or otherwise that the court lacks jurisdiction of the subject matter, the court shall dismiss the action.” Upon review of the materials contained in the case file, the court finds that it lacks jurisdiction over plaintiff’s claim.

{¶ 2} R.C. 2305.02 provides, in part, as follows:

{¶ 3} “A court of common pleas has exclusive, original jurisdiction to hear and determine an action or proceeding that is commenced by an individual who satisfies divisions (A)(1) to (4) of section 2743.48 of the Revised Code *and that seeks a determination by the court that the offense of which he was found guilty, including all lesser-included offenses, either was not committed by him or was not committed by any person.*” (Emphasis added.)

{¶ 4} Once the claimant secures such determination, R.C. 2743.48(D) provides that plaintiff “has and may file a civil action against the state, in the court of claims, to recover a sum of money in an amount fixed by R.C. 2743.48(E).” *Walden v. State* (1989), 47 Ohio St.3d 47, 50.

{¶ 5} This court has dismissed an inmate’s wrongful imprisonment action where the inmate failed to show that he had first obtained a determination from a court of common pleas that he was a wrongfully imprisoned individual. In *Norris v. Ohio Dep’t of Rehab. & Corr.*, Ct. of Cl. No. 2004-07824, 2005-Ohio-3959, Judge Clark stated the following: “[I]n order to prevail on a claim for wrongful imprisonment in Ohio, plaintiff is required to follow the statutory procedures set forth in R.C. 2743.48(A)(4) and 2305.02. Specifically, plaintiff must first obtain a determination from a court of common pleas that he is a wrongfully imprisoned individual before filing an action in this court. Plaintiff has presented no evidence that he has obtained such a determination. Therefore, defendants are entitled to judgment as a matter of law as to plaintiff’s claim for wrongful imprisonment.” *Id.* at ¶8, affirmed Franklin App. No. 05AP-762, 2006-Ohio-1750.

and no criminal proceeding is pending, can be brought, or will be brought by any prosecuting attorney, city director of law, village solicitor, or other chief legal officer of a municipal corporation against the individual for any act associated with that conviction.

“(5) Subsequent to sentencing and during or subsequent to imprisonment, an error in procedure resulted in the individual's release, or it was determined by a court of common pleas that the offense of which the individual was found guilty, including all lesser-included offenses, either was not committed by the individual or was not committed by any person.”

{¶ 6} According to his complaint, plaintiff states that he has “established by submitting to the Court of Claims a certified copy of the judgement of the court of common pleas associated with the claimant’s conviction and sentencing, and a certified copy of the entry of the determination of a court of common pleas that the claimant was a wrongfully imprisoned individual.” Despite his assertions, plaintiff did not provide the court with any such documentation. In addition, on August 11, 2008, plaintiff filed two entries from the Meigs County Court of Common Pleas. The first entry, dated May 21, 2008, states that the court granted the state’s motion to dismiss plaintiff’s “action for wrongful imprisonment claim.” The second entry, dated June 17, 2008, states that the court granted the state’s motion to dismiss plaintiff’s action for wrongful imprisonment.

{¶ 7} Upon review, the court finds that the documents in the record do not include a determination by a court of common pleas that the offense of which plaintiff was found guilty, including all lesser-included offenses, either was not committed by him or was not committed by any person, as required by R.C. 2305.02.

{¶ 8} Furthermore, plaintiff has failed to present the court with any documentation that satisfies the criteria listed in R.C. 2743.48(A)(1)-(5) to support his claim that he is a wrongfully imprisoned individual.

{¶ 9} Moreover, the record does not evidence a certified copy of the judgment entry of the court of common pleas associated with plaintiff’s conviction and sentencing as required by R.C. 2743.48(E)(1).²

{¶ 10} In sum, in that the court lacks jurisdiction over this action, plaintiff’s complaint shall be dismissed for lack of subject matter jurisdiction. Any pending motions shall be denied as moot.



Court of Claims of Ohio

The Ohio Judicial Center

2743.48(E) (1) states, in part:

“In a civil action as described in division (D) of this section, the complainant may establish that the claimant is a wrongfully imprisoned individual by submitting to the court of claims a certified copy of the judgment entry of the court of common pleas associated with the claimant’s conviction and sentencing, and a certified copy of the entry of the determination of a court of common pleas that the claimant is a wrongfully imprisoned individual.”

JASEN THOMSON

Plaintiff

v.

STATE OF OHIO

Defendant

Case No. 2008-02371-WI

Judge J. Craig Wright
Magistrate Steven A. Larson

JUDGMENT ENTRY

For the reasons set forth in the decision filed concurrently herewith, plaintiff's complaint is DISMISSED. Any pending motions are DENIED as moot. Court costs are assessed against plaintiff. The clerk shall serve upon all parties notice of this judgment and its date of entry upon the journal.

J. CRAIG WRIGHT
Judge

cc:

Stephanie D. Pestello-Sharf
Assistant Attorney General
150 East Gay Street, 18th Floor
Columbus, Ohio 43215-3130

Jasen Thomson, #530-120
Marion Correctional Institution
P.O. Box 57
Marion, Ohio 43301-0057

HTS/cmd
Filed December 18, 2008
To S.C. reporter January 20, 2009