

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

ZACHARIAH FRETWELL

Plaintiff

v.

DEPT. OF REHABILITATION AND
CORRECTIONS

Defendant

Case No. 2007-07949-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶ 1} Plaintiff, Zachariah Fretwell, a former inmate under the custody of defendant, Department of Rehabilitation and Correction (“DRC”), filed this claim alleging he was falsely imprisoned for a period of 60 days beyond the expiration of his criminal sentence. Plaintiff explained he was granted 324 days of jail time credit on a prison sentence of 335 days and he consequently should have been incarcerated for a period of 11 days at defendant’s Lorain Correctional Institution (“LorCI”). Plaintiff was incarcerated at LorCI from January 29, 2007 to April 10, 2007, a total of 71 days. Plaintiff reasoned he was falsely imprisoned at LorCI for a period of 60 days and he has consequently filed this action seeking to recover damages in the amount of \$2,500.00 for “lost wages, loss of freedom, and emotional injuries” due to his alleged false imprisonment. Plaintiff’s damage claim is the statutory maximum recoverable amount under R.C. 2743.10. The filing fee was waived.

{¶ 2} Plaintiff was originally received at LorCI on March 2, 2007, upon being sentenced to a prison term of eleven months for a violation of community control conditions of supervision. On February 28, 2007, plaintiff appeared in the Common Pleas Court of Richland County before Judge James DeWeese who sentenced plaintiff to a prison term of eleven months. Judge DeWeese signed an Order For Jail Time

Credit granting plaintiff a total of 130 days credit for time spent in the Richland County Jail. The Order For Jail Time Credit bore a file stamp date of March 7, 2007. On April 5, 2007, the Common Pleas Court of Richland County issued an entry signed by Judge DeWeese granting plaintiff an additional 194 days of jail time credit for time spent in the Mahoning County Jail, The Community Alternative Center, and the Crosswaeh Community Based Correctional Facility. The April 5, 2007 entry granting plaintiff the additional jail time credit was received by DRC on April 10, 2007. Since the additional jail time credit effectively ended his prison term plaintiff was immediately released from incarceration. Once the additional jail time credit was applied to plaintiff's prison sentence his date of release was recalculated as March 14, 2007, therefore prompting plaintiff's immediate release from incarceration when the additional credit documentation was received on April 10, 2007. Defendant contended it can only be held liable under a false imprisonment rationale if an inmate such as plaintiff is knowingly held beyond expiration of his sentence.

{¶ 3} Defendant contended plaintiff failed to produce sufficient evidence to prove his incarceration was continued when DRC knew or should have known his prison term had expired. Defendant insisted plaintiff was held in accordance with a lawful court order until sentence correcting information was received. Defendant explained plaintiff was immediately released from confinement upon receipt of a sentence amending document from the Common Pleas Court of Richland County. Plaintiff has not provided any evidence proving defendant received notice his sentence had expired before April 10, 2007.

{¶ 4} "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. 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 plaintiff was entitled to 130 days of jail time credit. In a reevaluation, the trial court determined on April 5, 2007, that plaintiff was entitled to an additional 194 days of jail time credit, a determination which necessitated plaintiff’s immediate release from confinement. Until defendant received this additional jail time credit from the trial court, plaintiff’s continued incarceration was justified.

{¶ 6} Plaintiff has failed to prove that DRC continued to confine him after receiving notice of jail time credit from the trial court on April 10, 2007. It is clear defendant incarcerated plaintiff pursuant to a lawful sentencing order and then released plaintiff after receiving notice that the sentence expired. Liability for false imprisonment does not attach under these circumstances. Defendant did not knowingly or intentionally confine plaintiff beyond the expiration of his sentence.

{¶ 7} 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, 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-Ohio-03368-AD, jud; 2002-Ohio-4621.

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ENTRY OF ADMINISTRATIVE
DETERMINATION

[Cite as *Fretwell v. Dept. of Rehab. & Corr.*, 2008-Ohio-5908.]

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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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

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RDK/laa
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