

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

CHRISTOPHER TOTH

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2008-11699-AD

Deputy Clerk Daniel R. Borchert

MEMORANDUM DECISION

{¶ 1} Plaintiff, Christopher Toth, a former inmate under the custody and control of defendant, Ohio Department of Rehabilitation and Correction (“DRC”), asserted he was wrongfully held by defendant beyond the expiration of his criminal sentence; a period of fourteen days. Plaintiff explained defendant failed to recognize jail time credit he earned that should have resulted in a release from incarceration date of fourteen days prior to his actual release date of November 24, 2008. Plaintiff explained the unrecognized jail time was served in the Cleveland 2nd District Jail and the Parma Jail covering the dates of April 10, 2006 to April 13, 2006; August 24, 2006 to August 28, 2006; and February 16, 2007 to February 20, 2007. Plaintiff further explained the only jail time credit used by DRC in calculating his sentence term and release date was credit earned for time he served in the Cuyahoga County Jail. According to plaintiff, he was granted nine days of jail time credit and should have been granted twenty-three days of credit. Plaintiff submitted documents indicating he filed a motion on May 15, 2008 with the criminal sentencing court (Cuyahoga County Court of Common Pleas)

requesting he be granted additional jail time credit. Plaintiff submitted a copy of "Docket Information" from the sentencing court referencing an entry file dated June 25, 2008. The docket entry noted "Motion of the defendant (Christopher Toth) for credit for time served is granted. Sheriff to calculate." Plaintiff did not submit any documentation to establish that the Cuyahoga County Sheriff complied with the order of the sentencing court to recalculate jail time credit. Plaintiff did not submit any documentation to establish DRC ever received any notation from the Cuyahoga County Sheriff regarding additional jail time credit for time served in the Cleveland City Jail and Parma Jail. Plaintiff did submit documentation from these two jails that he did in fact serve a total of fourteen days at the two facilities covering the periods April 10, 2006 to April 13, 2006; August 24, 2006 to August 28, 2006; and February 16, 2007 to February 20, 2007.

{¶ 2} Plaintiff contended DRC knowingly held him in custody for a fourteen day period beyond the expiration of his sentence; an act that constitutes actionable false imprisonment. Consequently, plaintiff filed this complaint seeking to recover \$2,100.00 for fourteen days of work loss at \$150.00 a day. Plaintiff stated he is an indigent and payment of the \$25.00 filing fee was waived.

{¶ 3} Defendant denied plaintiff was knowingly held under DRC custody beyond the expiration of his criminal sentence. Defendant asserted DRC received documentation from the Cuyahoga County Sheriff's Office (document submitted) granting plaintiff a total of twelve days of confinement credit reflecting time served in the Cuyahoga County Jail. No documentation of additional credit for time plaintiff served in the Cleveland Municipal Jail and the Parma Municipal Jail was ever received by DRC

from the Cuyahoga County Sheriff's Office. Defendant denied any knowledge regarding the fact plaintiff filed court motions for additional jail time credit for time served in the Cleveland Municipal Jail and the Parma Municipal Jail. Defendant stated plaintiff "earned twelve days of credit during his period of incarceration, resulting in a release date of November 24, 2008." Defendant contended plaintiff was granted all jail time credit reported by the Cuyahoga County Sheriff's Office and therefore his release date was appropriate and in accordance with the law.

{¶ 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, 108, 573 N.E. 2d 633, quoting 1 Harper & James, *The Law of Torts* (1956), 226, Section 3.7.

{¶ 5} 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.

{¶ 6} 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 at ¶7. Therefore, plaintiff was entitled to only the amount of jail-time credit that the trial court determined was appropriate. Defendant denied receiving any notice from the Cuyahoga County Sheriff’s Office of any additional jail time credit for plaintiff other than the time served in the Cuyahoga County Jail. No evidence has been submitted to establish that defendant knew about any additional jail-time credit prior to plaintiff’s release from prison.

{¶ 7} 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.

{¶ 8} 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; *Davison v. Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2008-01703-AD, 2008-Ohio-7021.

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

CHRISTOPHER TOTH

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2008-11699-AD

Deputy Clerk Daniel R. Borchert

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.

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Christopher Toth
1220 Parkhaven Drive
Parma, Ohio 44134

Gregory C. Trout, Chief Counsel
Department of Rehabilitation
770 West Broad Street
Columbus, Ohio 43222

RDK/laa
6/8

Case No. 2006-03532-AD

- 7 -

MEMORANDUM DECISION

Case No. 2006-03532-AD

- 7 -

MEMORANDUM DECISION

Filed 7/20/09
Sent to S.C. reporter 11/25/09