

IN THE COURT OF CLAIMS OF OHIO

DARRYL W. MCKNIGHT, JR.

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2015-00006

Judge Patrick M. McGrath
Magistrate Robert Van Schoyck

ENTRY GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

{¶1} On August 10, 2015, defendant filed a motion for summary judgment pursuant to Civ.R. 56(B). Plaintiff did not file a response. The motion is now before the court for a non-oral hearing pursuant to L.C.C.R. 4(D).

{¶2} Civ.R. 56(C) states, in part, as follows:

{¶3} "Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. No evidence or stipulation may be considered except as stated in this rule. A summary judgment shall not be rendered unless it appears from the evidence or stipulation, and only from the evidence or stipulation, that reasonable minds can come to but one conclusion and that conclusion is adverse to the party against whom the motion for summary judgment is made, that party being entitled to have the evidence or stipulation construed most strongly in the party's favor." See also *Gilbert v. Summit Cty.*, 104 Ohio St.3d 660, 2004-Ohio-7108, citing *Temple v. Wean United, Inc.*, 50 Ohio St.2d 317 (1977).

{¶4} As set forth in the complaint, plaintiff brings this action asserting a claim of false imprisonment. Plaintiff alleges that on April 10, 2007, he was arrested on

charges of aggravated robbery and felonious assault. Plaintiff further alleges that he remained in a county jail from that date until his conviction approximately 23 months later. According to plaintiff, as a result of his conviction he was sentenced to a six-year term of imprisonment in defendant's custody. Plaintiff alleges that when the county sheriff's department subsequently conveyed from jail into defendant's custody, the sheriff's department furnished defendant with a calculation of jail-time credit to which he was entitled. Plaintiff claims that defendant failed to apply the appropriate amount of jail-time credit to his sentence, however, and thus confined him beyond the expiration of his lawful sentence. Plaintiff states that defendant released him from custody on January 31, 2014.

{¶5} "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.*, 60 Ohio St.3d 107, 109 (1991), quoting *Feliciano v. Kreiger*, 50 Ohio St.2d 69, 71 (1977). "Pursuant to R.C. 2743.02(A)(1), the state may be held liable for the false imprisonment of its prisoners." *Id.* at paragraph two of the syllabus. "An action for false imprisonment cannot be maintained, however, when the imprisonment is in accordance with the judgment or order of a court, unless it appears such judgment or order is void on its face." *Pruitt v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 13AP-117, 2013-Ohio-3743, 7.

{¶6} Defendant asserts that its confinement of plaintiff was at all times in accordance with the sentencing orders of the Cuyahoga County Common Pleas Court. In support of its motion, defendant provided an affidavit from, Lora Heiss, who avers the following:

{¶7} "1. I have been employed by Defendant, Ohio Department of Rehabilitation and Correction ("DRC"), for approximately 28 years. I am currently employed by DRC as a Correction Records Sentence Computation Auditor. I have held this position for approximately eleven years.

{¶8} "2. In the scope and course of my job duties, I am responsible for reviewing sentencing information from courts and calculating release dates for inmates that are ordered to be incarcerated by DRC.

{¶9} "3. I have reviewed the sentencing information for Plaintiff, Darryl McKnight, Jr., that DRC has on file, and I am familiar with the sentence imposed on McKnight by the Cuyahoga County Court of Common Pleas and the calculation of sentence with DRC.

{¶10} “4. Attached as Exhibit A is a true and accurate copy of a sentencing order from the Cuyahoga County Court of Common Pleas regarding McKnight and case number CR-07-495162-B.

{¶11} “5. After McKnight was sentenced, the Cuyahoga County Sheriff informed DRC that McKnight had 421 days of jail time credit, and McKnight’s release date was set for February 9, 2014.

{¶12} “6. Attached as Exhibit B is a true and accurate copy of an amended sentencing order from the Cuyahoga County Court of Common Pleas regarding McKnight and case number CR-07-495162-B.

{¶13} “7. DRC reduced McKnight’s 6 year sentence by 1002 days based upon his 421 days of previous jail time credit, 572 days of prison time credit, and 9 days from the date of McKnight’s resentencing to his return to prison.

{¶14} “8. After the resentencing, McKnight was still scheduled to be released on February 9, 2014.

{¶15} “9. McKnight’s sentence was further reduced 9 days for earned credit, and he was released from prison on January 31, 2014.”

{¶16} As previously stated, plaintiff did not respond to defendant’s motion for summary judgment.

{¶17} Civ.R. 56(E) states, in part:

{¶18} “* * * When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials of the party’s pleadings, but the party’s response, by affidavit or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the party does not so respond, summary judgment, if appropriate, shall be entered against the party.”

{¶19} Based upon the uncontroverted affidavit of Heiss and the sentencing entries attached to her affidavit, it must be concluded that defendant’s confinement of plaintiff was at all times consistent with the orders of the Cuyahoga County Common Pleas Court.

{¶20} The essence of plaintiff’s claim is that defendant failed to apply the proper amount of jail-time credit to his six-year prison term, but the sentencing orders attached to Heiss’ affidavit provide that jail-time credit was to be calculated by the sheriff, Heiss avers that the sheriff informed defendant that plaintiff was entitled to 421 days of jail- time credit, and Heiss avers that defendant applied the 421 days of jail-time credit

when calculating plaintiff's release date. To the extent that plaintiff asserts the calculation of 421 days of jail-time credit was improper, such that he was actually entitled to additional days of credit that would have resulted in an earlier release from prison, "[defendant] has no duty to determine whether a court's jail-time credit calculation is correct." *MacConnell v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 11AP-572, 2012- Ohio-283, 12; see also *Trice v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 07AP-828, 2008-Ohio-1371, 22.

{¶21} "Although [defendant] has a duty pursuant to R.C. 2967.191 to credit an inmate's sentence with his jail-time credit, it is the sentencing court's responsibility to make 'the factual determination as to the number of days of confinement that a defendant is entitled to have credited toward his sentence.'" *Williams v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 09AP-77, 2009-Ohio-3958, 15, quoting *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 2003-Ohio-2061, 7. As a general rule, "[t]he proper remedy for any error in the determination of jail-time credit is 'either direct appeal or a motion for correction by the trial court, if it be a mistake rather than an allegedly erroneous legal determination.'" *Foreman v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 14AP-15, 2014-Ohio-2793, ¶ 16. "Pursuant to Ohio Adm.Code 5120-2-04(H), '[a] party questioning either the number of days contained in the journal entry or the record of the sheriff shall be instructed to address his concerns to the court or sheriff.' Further, '[u]nless the court issues an entry modifying the amount of jail time credit or the sheriff sends the institution corrected information about time confined awaiting transport, no change will be made.' *Id.*" *Bell v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 10AP-920, 2011-Ohio-6559, 18.

{¶22} Based upon the foregoing, the court concludes that there are no genuine issues of material fact and that defendant is entitled to judgment as a matter of law. As a result, defendant's motion for summary judgment is GRANTED and judgment is hereby rendered in favor of defendant. All previously scheduled events are VACATED. 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.

PATRICK M. MCGRATH
Judge

cc:

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Filed September 21, 2015
Sent to S.C. Reporter 2/23/16