

STATE OF MICHIGAN
COURT OF APPEALS

RAYMOND E. MCCANN II,

Plaintiff-Appellee,

v

STATE OF MICHIGAN,

Defendant-Appellant.

UNPUBLISHED

December 17, 2020

No. 350491

Court of Claims

LC No. 18-000214-MZ

Before: BOONSTRA, P.J., and GADOLA and TUKEL, JJ.

PER CURIAM.

Defendant, State of Michigan, appeals by right the Court of Claims' judgment awarding plaintiff, Raymond E. McCann II, \$87,672.25 under the Wrongful Imprisonment Compensation Act (WICA), MCL 691.1751 *et seq.* We vacate the judgment of the Court of Claims to the extent that it awarded compensation to plaintiff for his detention prior to the time he was incarcerated in a state correctional facility and remand for further proceedings consistent with this opinion.

I. FACTS

Plaintiff was a suspect in the murder of an 11-year-old girl, and pleaded *nolo contendere* to one count of perjury related to alleged inconsistent statements that he made while testifying pursuant to an investigative subpoena. The trial court sentenced plaintiff to a term of 20 months to 20 years' imprisonment with credit for 336 days for time spent in the St. Joseph County Jail while awaiting trial. Shortly after plaintiff's plea-based conviction, another man confessed to the murder of the 11-year-old girl. As a result, plaintiff's conviction was vacated, and all charges against him were dismissed with prejudice. Upon his release, plaintiff had spent 268 days in a state correctional facility.

Plaintiff filed a complaint against defendant under the WICA, seeking compensation for the time he was imprisoned. Plaintiff and defendant stipulated to the entry of judgment in favor of plaintiff, but disputed the amount of compensation owed. Plaintiff argued that the WICA provides compensation for each day served for an offense for which a person was wrongfully imprisoned. In contrast, defendant argued that the WICA only allows compensation for time spent in prison, and not for time served in pretrial detention at a county jail facility. The Court of Claims

agreed with plaintiff and awarded him \$87,672.25, plus costs and attorney fees. Defendant now appeals to this Court.

II. STANDARD OF REVIEW

This Court reviews issues of statutory interpretation de novo. *Ricks v Michigan*, 330 Mich App 277, 283; 948 NW2d 83 (2019). The goal of statutory interpretation is “to ascertain and give effect to the intent of the Legislature.” *Id.* (Quotation marks and citation omitted). Unambiguous language is enforced as written. *Id.* Undefined statutory terms must be given their plain meaning. *Sullivan v Michigan*, 328 Mich App 74, 80-81; 935 NW2d 413 (2019).

III. ANALYSIS

Under the Michigan WICA, “[a]n individual convicted under the law of this state and subsequently imprisoned in a state correctional facility for 1 or more crimes that he or she did not commit may bring an action for compensation against this state in the court of claims as allowed by this act.” MCL 691.1753. “State correctional facility” is defined as “a correctional facility maintained and operated by the department of corrections.” MCL 691.1752(d). In relevant part, MCL 691.1755 sets forth both the burden of proof and compensation scheme for the WICA:

(1) In an action under this act, the plaintiff is entitled to judgment in the plaintiff’s favor if the plaintiff proves all of the following by clear and convincing evidence:

(a) The plaintiff was convicted of 1 or more crimes under the law of this state, was sentenced to a term of imprisonment in a state correctional facility for the crime or crimes, and served at least part of the sentence.

(b) The plaintiff’s judgment of conviction was reversed or vacated and either the charges were dismissed or the plaintiff was determined on retrial to be not guilty. However, the plaintiff is not entitled to compensation under this act if the plaintiff was convicted of another criminal offense arising from the same transaction and either that offense was not dismissed or the plaintiff was convicted of that offense on retrial.

(c) New evidence demonstrates that the plaintiff did not perpetrate the crime and was not an accomplice or accessory to the acts that were the basis of the conviction, results in the reversal or vacation of the charges in the judgment of conviction or a gubernatorial pardon, and results in either dismissal of all of the charges or a finding of not guilty on all of the charges on retrial.

(2) Subject to subsections (4) and (5), if a court finds that a plaintiff was wrongfully convicted and imprisoned, the court shall award compensation as follows:

(a) Fifty thousand dollars for each year from the date the plaintiff was imprisoned until the date the plaintiff was released from prison, regardless of whether the plaintiff was released from imprisonment on parole or because the

maximum sentence was served. For incarceration of less than a year in prison, this amount is prorated to 1/365 of \$50,000.00 for every day the plaintiff was incarcerated in prison.

Recently, our Supreme Court addressed whether the WICA authorizes compensation for time spent in detention before a wrongful conviction. *Sanford v Michigan*, ___ Mich ___; ___ NW2d ___ (2020) (Docket No. 159636); slip op at 1. In *Sanford*, the plaintiff pleaded guilty to four counts of second-degree murder and carrying a firearm during the commission of a felony. *Id.* at ___; slip at 2. Subsequently, another man confessed to the murders. *Id.* At that point, the plaintiff had spent 8 years and 61 days in the custody of the Michigan Department of Corrections (DOC), and 198 days in a juvenile detention facility. *Id.* at ___; slip at 2-3. During the civil suit filed pursuant to the WICA, the parties disagreed over whether the plaintiff was entitled to compensation for the 198 days he spent in the juvenile detention facility. *Id.* at ___; slip at 3.

The Supreme Court held that under the WICA a wrongfully convicted individual may not be compensated for time spent in preconviction detention. *Id.* at ___; slip op at 8, 12. The Court reasoned that the WICA requires compensable imprisonment to be wrongful. *Id.* at ___; slip at 8-10. Put differently, the detention must be unfair or unjust, which is true in the case of an innocent person being imprisoned based on a conviction for a crime he or she did not commit. *Id.* at ___; slip at 10. The Court further reasoned that the Legislature declined to include compensation “for preconviction detention that was purely the result of local decision-making.” *Id.* at ___; slip at 11. Rather, the statute permits compensation only upon a wrongful *conviction* resulting in detention in a state correctional facility, (i.e., prison).

In this case, plaintiff received 336 days of credit for time served in the St. Joseph County Jail before his plea-based conviction for perjury. In light of our Supreme Court’s decision in *Sanford*, plaintiff is not eligible to receive compensation for this detainment period. *Id.* at ___; slip at 12. However, plaintiff is entitled to compensation for the time he served in the Michigan DOC, which was 268 days.¹ Accordingly, this Court vacates the judgment of the Court of Claims to the extent that it awarded plaintiff compensation for his detention before the time he was incarcerated in a state correctional facility, and remand this matter to that court for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Mark T. Boonstra
/s/ Michael F. Gadola
/s/ Jonathan Tukel

¹ Our decision in this case is limited to the parameters outlined in the *Sanford* opinion. *Sanford v Michigan*, ___ Mich ___; ___ NW2d ___ (2020) (Docket No. 159636); slip op at 6-11. A remaining issue left unaddressed by our Supreme Court and the parties in this appeal, other than at oral argument in this case, is whether the plaintiff in a WICA action is entitled to compensation for time spent in a local jail or detention facility between his or her conviction date and incarceration in a state correctional facility. See *id.* at ___; slip at 10 n 24. That issue not having been briefed or expressed in the questions presented on appeal, we decline to address it.