

[Cite as *Hicks v. Ohio Dept. of Rehab. & Corr.*, 2001-Ohio-1857.]
 IN THE COURT OF CLAIMS OF OHIO

DUANE M. HICKS :
 Plaintiff : CASE NO. 2000-11487
 v. : ENTRY GRANTING DEFENDANT'S
 : MOTION FOR SUMMARY JUDGMENT
 DEPARTMENT OF REHABILITATION :
 AND CORRECTION :
 Defendant :
 : : : : : : : : : : : : : : : : :

On August 15, 2001, defendant filed a motion for summary judgment. On September 11, 2001, plaintiff filed a memorandum in opposition to defendant's motion. This matter is now before the court for a non-oral hearing on defendant's motion for summary judgment.

Civ.R. 56(C) states, in part, as follows:

*** 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, *Williams v. First United Church of Christ* (1974), 37 Ohio St.2d 150; *Temple v. Wean United, Inc.* (1977), 50 Ohio St.2d 317.

Plaintiff, a former inmate under the custody and control of defendant pursuant to R.C. 5120.16, alleges that defendant is liable for false imprisonment for confining plaintiff for one hundred fifty-four days beyond the expiration of his lawful term of confinement. Defendant denies liability.

On March 21, 2000, plaintiff was sentenced by the Richland County Court of Common Pleas to concurrent six-month sentences arising under two separate case numbers. Additionally, the court granted jail time credit in each case. In Case No. 99CR512D, plaintiff was granted one hundred fifty-six days of jail time credit. In Case No. 99CR574D, plaintiff was granted one day of jail time credit. In addition to this credit, defendant credited plaintiff with an additional four days of credit for transport time and one day of earned credit.

Defendant took all of plaintiff's time credit into consideration in calculating plaintiff's controlling sentence, which is defined as the last of the two concurrent sentences to expire after application of the time credit under each sentence.

Upon expiration of plaintiff's controlling sentence, Case No. 99-CR-574D, he was released from incarceration on September 15, 2000.

Upon review, the court finds that defendant properly calculated plaintiff's controlling sentence, by applying jail time credit as awarded by the trial court in each separate case.

As a result, defendant did not confine plaintiff beyond the

expiration of his lawfully imposed sentence. Accordingly, defendant's motion for summary judgment is GRANTED and judgment is rendered for defendant. 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.

JUDGE

Entry cc:

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