

[Cite as *Thomson v. Dept. of Rehab. & Corr.*, 2008-Ohio-2444.]

# Court of Claims of Ohio

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JASEN THOMSON

Plaintiff

v.

DEPARTMENT OF REHABILITATION  
AND CORRECTIONS

Defendant

[Cite as *Thomson v. Dept. of Rehab. & Corr.*, 2008-Ohio-2444.]

Case No. 2006-02617	- 3 -	MAGISTRATE DECISION
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Case No. 2006-02617

Judge J. Craig Wright  
Magistrate Steven A. Larson

MAGISTRATE DECISION

{¶1} This case was initially tried to the court on the issue of liability. The court subsequently issued a decision in favor of plaintiff and found that plaintiff was imprisoned beyond his lawful term of confinement for 104 days between September 17, 2003, and his release date of December 30, 2003. The case proceeded to trial on the issue of damages.

{¶2} At all times relevant to this action, plaintiff was an inmate in the custody and control of defendant at the Marion Correctional Institution (MCI) pursuant to R.C. 5120.16. Plaintiff asserts that he is entitled to an amount of damages equal to those prescribed for wrongful imprisonment actions pursuant to R.C. 2743.48,<sup>1</sup> plus additional damages for severe emotional distress.

{¶3} Plaintiff does not qualify for damages for confinement and work loss under R.C. 2743.48 because he was not wrongfully imprisoned. Nonetheless, the court has used the statute as guidance in determining damages for false imprisonment, while at the same time recognizing that such individuals are not entitled to full compensation as provided by the statute. See *Bay v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2002-07231, 2004-Ohio-7296; *Wilson v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2003-04406, 2004-Ohio-5922; *Corder v. Ohio Dept. of Rehab. & Corr.* (1996), 114 Ohio App.3d 360.

{¶4} In respect to his work loss claim, plaintiff testified that he has been imprisoned on at least five separate occasions since 1994. Additionally, plaintiff stated that he has never held a “steady job” and that when he is not incarcerated he mainly does “odd jobs” for cash. Plaintiff failed to show that he is entitled to damages resulting from lost wages during his period of false imprisonment.

{¶5} Plaintiff also seeks damages for emotional distress that he allegedly suffered while he attempted to effectuate his release from custody. Plaintiff testified that

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<sup>1</sup>R.C. 2743.48(E) provides, in part:

“(2) In a civil action as described in division (D) of this section, \* \* \* a wrongfully imprisoned individual is entitled to receive a sum of money that equals the total of each of the following amounts:

“\* \* \*

“(b) For each full year of imprisonment in the state correctional institution for the offense of which the wrongfully imprisoned individual was found guilty, forty thousand three hundred thirty dollars \* \* \* and for each part of a year of being so imprisoned, a pro-rated share of forty thousand three hundred thirty dollars \* \* \*;

as a result of his repeated attempts to bring his false imprisonment to the attention of defendant's employees he was placed in "local control" and spent 15 days in an isolation cell. However, Steven Brinkley, the institutional inspector during the time of plaintiff's false imprisonment, testified that a review of institutional records showed that plaintiff was placed in isolation between July 9, 2003, and July 23, 2003, for threatening MCI staff. As such, the court finds that plaintiff's stay in isolation occurred prior to the period of false imprisonment, and that therefore he is not entitled to additional compensation for such disciplinary action.

{¶16} Finally, plaintiff claims emotional distress related to medication that was prescribed for him during much of his time in prison, including his period of false imprisonment. Plaintiff testified that he was required to take numerous medications to control his personality, and emotional and psychological disorders. However, plaintiff failed to prove that he suffered severe emotional distress directly related to prescribed medication.

{¶17} Accordingly, it is recommended that judgment be rendered in favor of plaintiff in the amount of \$5,775, which includes the \$25 filing fee.

*A party may file written objections to the magistrate's decision within 14 days of the filing of the decision, whether or not the court has adopted the decision during that 14-day period as permitted by Civ.R. 53(D)(4)(e)(i). If any party timely files objections, any other party may also file objections not later than ten days after the first objections are filed. A party shall not assign as error on appeal the court's adoption of any factual finding or legal conclusion, whether or not specifically designated as a finding of fact or conclusion of law under Civ.R. 53(D)(3)(a)(ii), unless the party timely and specifically objects to that factual finding or legal conclusion within 14 days of the filing of the decision, as required by Civ.R. 53(D)(3)(b).*

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"(c) Any loss of wages, salary, or other earned income that directly resulted from the wrongfully imprisoned individual's arrest, prosecution, conviction, and wrongful imprisonment."

Case No. 2006-02617	- 6 -	MAGISTRATE DECISION
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STEVEN A. LARSON  
Magistrate

cc:

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Magistrate Steven A. Larson	

MR/cmd  
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