

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

CHARLES A. WILLIAMS

Plaintiff

v.

OHIO DEPARTMENT OF REHABILITATION AND CORRECTION

Defendant

Case No. 2008-01014

Judge Clark B. Weaver Sr.

DECISION

{¶ 1} On July 10, 2008, defendant filed a motion for summary judgment pursuant to Civ.R. 56. On August 11, 2008, plaintiff filed a memorandum contra and a cross-motion for summary judgment, and defendant filed a memorandum contra plaintiff's motion for summary judgment. On September 4, 2008, the court conducted an oral hearing on the motions.

{¶ 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.* (1977), 50 Ohio St.2d 317.

{¶ 4} On March 1, 2004, plaintiff entered a guilty plea in the Hamilton County Court of Common Pleas to one count of violating a protection order. As a result, plaintiff was sentenced to a term in a residential treatment program at the River City Correctional Center (RCCC) and to community control thereafter, to be served concurrently with his sentence in a separate criminal case. RCCC released plaintiff on or about August 30, 2004, at which time his community control obligations commenced. On February 23, 2005, the common pleas court found that plaintiff had violated community control and sentenced him to a prison term of nine months "with credit given for days served."

{¶ 5} On March 1, 2005, plaintiff was conveyed to defendant's custody. Based upon the sentencing and conveyance information it received at that time, defendant determined that plaintiff was entitled to jail-time credit in the amount of six days (being the period between his sentencing and conveyance) and that his release date was November 22, 2005.

{¶ 6} On July 18, 2005, in response to a motion for jail-time credit filed by plaintiff, the common pleas court issued an entry granting him 28 days of jail-time credit "plus conveyance time to the institution," inclusive of any previously granted credit. Based upon this entry, defendant recalculated plaintiff's release date as October 26, 2005.

{¶ 7} On August 4, 2005, however, the common pleas court issued another entry granting jail-time credit, this time providing for 206 days, inclusive of any previously granted credit. Melissa Adams, an employee of defendant's Bureau of Sentence Computation, states in an affidavit accompanying defendant's motion that defendant received this entry on August 5, 2005, and plaintiff was released that same day.

{¶ 8} Plaintiff brings this action for false imprisonment, alleging that his sentence expired on April 16, 2005. Defendant asserts that it confined plaintiff at all

times pursuant to a valid court order and that plaintiff thus cannot establish liability for false imprisonment.

{¶ 9} “False imprisonment occurs when a person confines another intentionally ‘without lawful privilege and against his consent within a limited area for any appreciable time * * *.’” *Bennett v. Ohio Dept. of Rehab. & Corr.* (1991), 60 Ohio St.3d 107, 109, quoting *Feliciano v. Kreiger* (1977), 50 Ohio St.2d 69, 71. The elements of a false imprisonment claim are: 1) expiration of the lawful term of confinement; 2) intentional confinement after the expiration; and, 3) knowledge that the privilege initially justifying the confinement no longer exists. *Corder v. Ohio Dept. of Rehab. & Corr.* (1994), 94 Ohio App.3d 315, 318.

{¶ 10} Plaintiff’s sentencing order did not specify any amount of jail-time credit due, and the credit granted in the July 18, 2005 entry did not represent the full amount of credit to which he was entitled. Not until August 4, 2005, did the common pleas court provide an accurate calculation of plaintiff’s jail-time credit, and it is undisputed that plaintiff’s sentence had expired prior to that time.

{¶ 11} Upon receiving a calculation of jail-time credit from a court or sheriff, defendant is required under R.C. 2967.191 to apply the credit to an inmate’s sentence. There is no dispute that defendant applied jail-time credit to plaintiff’s sentence to the extent that the common pleas court and conveying sheriff provided calculations of such credit. Plaintiff alleges, however, that defendant also had a duty under R.C. 2967.191 to investigate and calculate his jail-time credit inasmuch as he “advised” defendant that he was entitled to additional credit.

{¶ 12} To the contrary, when an inmate questions a court’s or sheriff’s calculation of jail-time credit, it is the inmate’s responsibility to address those concerns to the court or sheriff pursuant to Ohio Adm.Code 5120-2-04(H). *Trice v. Ohio Dept. of Rehab. & Corr.*, Franklin App. No. 07AP-828, 2008-Ohio-1371, at ¶17. Defendant is not required under R.C. 2967.191 to investigate the amount of jail-time credit to which an inmate is entitled. *Doyle v. Ohio Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2005-06716, 2006-Ohio-1802; *Fennell v. Dept. of Rehab. & Corr.*, Ct. of Cl. No. 2007-01312-AD, 2007-Ohio-7185.

{¶ 13} Although defendant “has a mandatory duty pursuant to R.C. 2967.191 to credit an inmate with jail time already served, it is the trial court that makes the factual determination as to the number of days of confinement that a defendant is entitled to have credited toward his sentence.” *State ex rel. Rankin v. Ohio Adult Parole Auth.*, 98 Ohio St.3d 476, 478, 2003-Ohio-2061.

{¶ 14} Liability for false imprisonment may attach where defendant intentionally continues to confine an inmate after learning that the privilege initially justifying confinement no longer exists. *Bennett*, supra, paragraph one of the syllabus. In this action, however, when defendant received an accurate calculation of plaintiff’s jail-time credit from the common pleas court and determined that its privilege to confine plaintiff no longer existed, it promptly released him. Accordingly, the court finds that defendant is not liable for false imprisonment.

{¶ 15} Based upon the foregoing, the court finds that there are no genuine issues of material fact and that defendant is entitled to judgment as a matter of law. Accordingly, plaintiff’s motion for summary judgment shall be denied, defendant’s motion for summary judgment shall be granted, and judgment shall be rendered in favor of defendant. All other pending motions are DENIED as moot.



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JUDGMENT ENTRY

An oral hearing was conducted in this case upon the parties' motions for summary judgment. For the reasons set forth in the decision filed concurrently herewith, plaintiff's motion for summary judgment is DENIED, defendant's motion for summary judgment is GRANTED, and judgment is rendered in favor of 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.

CLARK B. WEAVER SR.
Judge

cc:

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RCV/cmd
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