

[Cite as *Rones v. Ohio Dept. of Rehab. & Corr.*, 2021-Ohio-1524.]

MURRY A. RONES

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2020-00297JD

Judge Patrick E. Sheeran
Magistrate Scott Sheets

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

{¶1} On January 7, 2021, defendant, Ohio Department of Rehabilitation and Correction (ODRC) filed a motion for summary judgment pursuant to Civ.R. 56(C). Plaintiff did not file a response. Pursuant to L.C.C.R. 4(D), the motion for summary judgment is now before the court for a non-oral hearing. For the reasons stated below, the court GRANTS defendant's motion for summary judgment.

Standard of Review

{¶2} Motions for summary judgment are reviewed under the standard set forth in Civ.R. 56(C), which states, in part:

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 summary 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.

"[T]he moving party bears the initial responsibility of informing the trial court of the basis for the motion, and identifying those portions of the record before the trial court which demonstrate the absence of a genuine issue of material fact on a material element of the nonmoving party's claim." *Dresher v. Burt*, 75 Ohio St.3d 280, 292, 662 N.E.2d 264 (1996). To meet this initial burden, the moving party must be able to point to evidentiary materials of the type listed in Civ.R. 56(C). *Id.* at 292-293.

{¶3} If the moving party meets its initial burden, the nonmoving party bears a reciprocal burden outlined in Civ.R. 56(E), which states, in part:

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.

{¶4} Plaintiff alleges that defendant is liable for violations of his constitutional rights and for false imprisonment. He asserts that, on June 12, 2019, the Adult Parole Authority (APA), unlawfully arrested him for violating a protection order involving his wife and sanctioned him with a 90-day prison term. Complaint, ¶ 12. Plaintiff claims that the APA did not have jurisdiction to arrest him. Plaintiff takes issue with the legality and/or validity of the protection order which led to his arrest. *Id.* Plaintiff contends he is currently and unlawfully under the supervision of the APA for a 2009 conviction. *Id.* He asserts "he was arrested, sent to prison, unlawfully detained, and resentence by the Ohio Dept of rehab (sic) and Correction to more P.R.C." Plaintiff seeks \$100,650,000 in damages. *Id.* at ¶ 13.

{¶5} In seeking summary judgment, defendant argues that plaintiff's false imprisonment claim fails as a matter of law because plaintiff was incarcerated and/or

subject to post-release control pursuant to a facially valid sentencing entry. Defendant also argues that it is entitled to discretionary immunity regarding its decision to place plaintiff on post-release control and/or its decision to sanction plaintiff for a violation of the same. Finally, defendant argues that the court lacks subject-matter jurisdiction over plaintiff's constitutional claims. In support of its motion, defendant submitted the affidavits of Shannon Castlin (Ms. Castlin) and Michael Jones (Mr. Jones) as well as several documents including the sentencing entries associated with plaintiff's convictions, and various notices and orders.

Facts

{¶6} Ms. Castlin, a Correction Records Sentence Computation Auditor for ODRC's Bureau of Sentence Computation, and Mr. Jones, a parole officer for the APA, provide a detailed history of plaintiff's history with ODRC as well as facts relative to his June 12, 2019 arrest. On May 9, 1990, plaintiff was convicted for sexual battery and sentenced to a 1-year prison term and admitted to ODRC's custody under inmate number A221-605. Castlin Affidavit, ¶ 4; Exhibit A-1. While serving this sentence, plaintiff was convicted for rape and sentenced to a 25-year prison term on July 23, 1990 to run consecutively to his May 9, 1990 sentence. Castlin Aff., ¶ 5; Ex. A-2. Plaintiff's maximum release date from these sentences was November 4, 2015. Castlin Aff., ¶ 5.

{¶7} Plaintiff was first granted parole on February 6, 2006. *Id.* Between February 7, 2007 and July 1, 2009, plaintiff was subsequently returned to ODRC custody for parole violations and re-granted parole several times. *Id.* at ¶ 5-6. Then, on December 22, 2009, plaintiff was convicted for felonious assault and possession of cocaine, sentenced to a 4-year prison term for both crimes, and returned to ODRC custody under inmate number A590-367. Castlin Aff. ¶ 7; Ex. A-3. This sentence ended on August 24, 2013. Castlin Aff. ¶ 7.

{¶8} When this sentence ended, plaintiff still had time to serve under his 25-year sentence. *Id.* at ¶ 8. Plaintiff was released under post release control upon the

expiration of this sentence on November 4, 2015. *Id.* Then, on March 9, 2017, plaintiff was convicted for having a weapon under disability, sentenced to a 9-month prison term, and returned into ODRC custody. *Id.* at ¶ 9; Ex. A-4. As a part of his sentence, plaintiff could be “supervised on post-release control by the Adult Parole Authority for a **discretionary** period of **up to 3 years** after being released from prison, as determined by the Adult Parole Authority.” Ex. A-4. This sentence expired on September 25, 2017 at which time plaintiff was released from ODRC under post release control. Castlin Aff., ¶ 10; Ex. B-3.

{¶9} At all times relevant to his complaint, plaintiff was on post release control pursuant to an APA post release control reporting order. Jones Affidavit, ¶ 7. On June 12, 2019, while on post release control, plaintiff was arrested for violating a protection order and an APA written sanction to have no intentional contact with his victim. Jones Aff., ¶ 4. On July 8, 2019, the APA held a hearing regarding plaintiff’s violation and he was sentenced to serve a 55-day prison sanction term. Jones Aff., ¶ 5; Ex. B-1; Ex. B-2. Plaintiff signed a notice regarding the conditions of his supervision while under post release control. Jones Aff., ¶ 8; Ex. B-4; Ex. B. Jones explains that offenders only re-sign a new notice if they are updated or changed. *Id.* Plaintiff remained on post release control until December 5, 2020 when the APA granted him final release from supervision. Jones Aff., ¶ 8; Ex. B-5.

Law and Analysis

{¶10} “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. 107, 109, 573 N.E.2d 633, quoting *Feliciano v. Kreiger*, 50 Ohio St.2d 69, 71, 362 N.E.2d 646 (1977). Pursuant to R.C. 2743.02(A)(1), “the state may be held liable for the false imprisonment of its prisoners.” *Abercrombie v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 16AP-744, 2017-Ohio-5606, ¶ 9, quoting *Bennett* at paragraph two of the

syllabus. Specifically, “[a] false imprisonment action against ODRC may be maintained where the imprisonment was not according to the terms of a court order or judgment or where it was according to the terms of a court order or judgment but ‘it appear[s] that such judgment or order is void.’” *Ellis v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 19AP-354, 2020-Ohio-6877, ¶ 29, quoting *Bennett*, 60 Ohio St.3d at 111. Further, “[a]n order or judgment is void if the trial court lacked jurisdiction over the case or the person, or if, having been merely voidable when issued, the judgment was duly challenged and voided.” *Id.*

{¶11} The affidavits of Shannon Castlin and Michael Jones and the exhibits attached thereto establish that plaintiff was, at all times relevant to his complaint, under the continued supervision of the APA pursuant to a valid sentencing entry. Most importantly, the evidence establishes that plaintiff was subject to post-release control at the time of his June 12, 2019 arrest. Defendant having sustained its burden on summary judgment, the burden shifted to plaintiff to demonstrate a genuine issue of material fact. However, plaintiff failed to respond to defendant’s motion and has provided no evidence that any of his sentencing entries are invalid, void, or voidable. Thus, construing the evidence in a light most favorable to plaintiff, the Court finds that there is no genuine issue of material fact that plaintiff, at all relevant times, was incarcerated and/or on post-release control pursuant to a series of valid, and not void, sentencing judgments or orders. As such, the court finds plaintiff can prove no set of facts entitling him to recovery for false imprisonment.

{¶12} Further, to the extent plaintiff seeks recovery for defendant’s decision to place him on post-release control and/or its decision to sanction him for violating the terms of his release, the court finds such decisions involve a high degree of discretion and are, therefore, entitled to discretionary immunity. *See Johnson v. Adult Parole Auth.*, 10th Dist. Franklin No. 99AP-522, 2000 Ohio App. Lexis 481 (Feb. 15, 2000) (“The APA’s decision to grant or deny parole is an executive function involving a high degree of official judgment or discretion.”); *Claren v. Adult Parole Authority*, Ct. of Cl.

No. 2011-10924, 2011-Ohio-7034 (“the APA’s decision to revoke parole is an exercise of an executive function involving a high degree of official judgment or discretion pursuant to legislative authority and, as such, is not actionable under the discretionary immunity doctrine.”); *Reynolds v. State*, 14 Ohio St.3d 68, 471 N.E.2d 776 (1984). As defendant is entitled to immunity for decisions related to the imposition of post-release control, the court finds plaintiff could prove no set of facts relative to these decisions which would entitle him to relief.

{¶13} Finally, to the extent plaintiff claims defendant is liable for violating his constitutional rights, it is well settled this Court’s limited jurisdiction “does not include the right to adjudicate claims based upon provisions of the Ohio and United States Constitutions.” *Martin v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 16AP-585, 2017-Ohio-1124, ¶ 5. Lacking subject-matter jurisdiction over such claims, the court finds that dismissal is appropriate pursuant to Civ.R. 12(B)(1) and 12(H)(3), the latter of which provides that the court shall dismiss claims whenever it appears subject-matter jurisdiction is lacking.

Conclusion

{¶14} For the reasons set forth above, defendant’s motion for summary judgment is GRANTED. Further, any constitutional claims are DISMISSED pursuant to Civ.R. 12(B)(1) and Civ.R. 12(H)(3). Judgment is 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 E. SHEERAN
Judge