

IN THE COURT OF CLAIMS OF OHIO

ROBERT O. HAYDEN

Plaintiff

v.

OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION

Defendant

Case No. 2024-00454JD

Judge Lisa L. Sadler
Magistrate Robert Van Schoyck

ENTRY GRANTING DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT

{¶1} On September 20, 2024, Plaintiff filed a Motion for Summary Judgment. On October 7, 2024, Defendant filed a combined response and Cross-Motion for Summary Judgment. On October 22, 2024, Plaintiff filed a response. The Motions have been fully briefed and are now before the Court for a non-oral hearing pursuant to L.C.C.R. 4(D).

Standard of Review

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

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 fact on a material element of the nonmoving party’s claim.” *Dresher v. Burt*, 75 Ohio St. 3d 280, 292 (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):

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.

Background

{¶4} Plaintiff claims in his Amended Complaint that Defendant confined him “without lawful justification” at the Chillicothe Correctional Institution from May 2015 to March 2024. (Amended Complaint, ¶ 10-12.) While Plaintiff’s theory of relief is not specifically identified in the Amended Complaint, it is alleged that “[t]he judgment of Plaintiff’s sentence was voidable and subject to res judicata. Plaintiff’s sentence was not appealed or modified from 10 to 25 too 15 to 40 years from any court of law.” (*Id.* at ¶ 13.) Plaintiff seeks to recover “\$7 million dollars” for his alleged damages, which include “[t]he loss of 9 yr of freedom.” (*Id.* at ¶ 13-14.)

Law and Analysis

{¶5} The Court construes Plaintiff’s Amended Complaint as containing a false imprisonment claim. See *Rogers v. Barbera*, 170 Ohio St.241, 243 (1960), quoting 22 Am.Jur., False Imprisonment, § 2-3, at 353 (1939) (“In false imprisonment, the essence of the tort consists in depriving the plaintiff of his liberty without lawful justification”).

{¶6} “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.3d. 107, 109 (1991), quoting *Feliciano v. Kreiger*, 50 Ohio St.2d 69, 71 (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.*, 2017-Ohio-5606, ¶ 9 (10th Dist.), quoting *Bennett* at paragraph two of the syllabus. “However, “an action for false imprisonment cannot be maintained where the wrong complained of is imprisonment in accordance with the judgment or order of a court, unless it appear[s] that such judgment or order is void.”” *Id.*, quoting *Bennett* at 111, quoting *Diehl v. Friester*, 37 Ohio St. 473, 475 (1882). “To prevail on a claim for false imprisonment against the state, a person must be able to demonstrate: ‘(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.’” *Brandon v. Ohio Dept. of Rehab. & Corr.*, 2021-Ohio-418, ¶ 17 (10th Dist.), quoting *Washington v. Ohio Adult Parole Auth.*, 2020-Ohio-3385, ¶ 22 (10th Dist.).

{¶7} In support of his Motion for Summary Judgment, Plaintiff argues that “[t]his case involves the transformation of plaintiff[s] sentence without any authority from a judicial body or a court of law.” (Plaintiff’s Memorandum in Support, p. 2.) Plaintiff asserts that in 1990 he was convicted of rape and sentenced to a prison term of 10-to-25 years, and that Defendant subsequently “transform[ed] plaintiff’s sentence” by adding “9 extra years” to his term of imprisonment. (*Id.* at ¶ 2, 4.) As support, Plaintiff submitted copies of his 1990 sentencing transcript, a 1990 sentencing entry from the Montgomery County Common Pleas Court, and a 2014 letter to him from an employee of Defendant’s Bureau of Sentence Computation, C. Black, responding to correspondence that Plaintiff had submitted regarding his sentence computation, wherein Black explains how Defendant calculated the maximum term of his imprisonment.

{¶8} Defendant, in its Motion for Summary Judgment, argues that at the time Plaintiff was sentenced to the 10-to-25-year prison term in 1990, he was on parole from a 5-to-15-year prison term to which he had been sentenced in 1984, and that under the version of R.C. 2929.41(B) in effect in 1990, the remainder of the 1984 sentence was

required to run consecutively with the 1990 sentence. According to Defendant, Plaintiff's aggregate prison term therefore did not expire until March 30, 2024, at which point it released Plaintiff. Defendant thus argues that its confinement of Plaintiff was at all times in accordance with the sentencing entries from his 1984 and 1990 convictions.

{¶9} In support of its motion, Defendant submitted an affidavit from Carla Black, who is employed with Defendant as a Correctional Records Sentence Computation Auditor/Supervisor in the Bureau of Sentence Computation. Black avers, in pertinent part:

4. Hayden was admitted to DRC on September 12, 1984 to serve a sentence from Montgomery County Common Pleas Court Case number 84-CR-1166 for attempted rape. He was sentenced to serve 5-15 years for that conviction. A true and accurate copy of the Entry for the sentence in that case is attached to this Affidavit as Ex. A.

5. Hayden was paroled on March 17, 1989. A true and accurate copy of the Certificate of Parole/Release Authorization for Hayden is attached to this Affidavit as Ex. B.

6. While Hayden was on parole for this attempted rape conviction, he offended again, committing the crime of rape on December 31, 1989. He was convicted in the Montgomery County Common Pleas Court Case No 90-CR-308, and sentenced to serve 10-25 years for that conviction. A true and accurate copy of the Entry on for the sentence in that case is attached to this Affidavit as Ex. C.

7. Since 1989 rape was committed while Hayden was on parole for attempted rape, and the journal entry for the subsequent rape conviction was silent, the sentences automatically run consecutively pursuant to Ohio Revised Code 2929.41(B), which gives a sentence of 15-40 years with a maximum expiration of sentence of March 30, 2024. Hayden was released on March 30, 2024.

8. While in the custody of DRC, Hayden was imprisoned in accordance with the judgment entries issued by Montgomery County Court of Common Pleas in Case No. 84-CR-1166 and 90-CR-308. No irregularities or other

invalidating characteristics were noted in regards to the judgment entries issued on those two cases.

{¶10} Upon review of the arguments and evidence presented by the parties in connection with the motions for summary judgment, reasonable minds can only conclude that Plaintiff cannot demonstrate that Defendant confined him beyond the expiration of his lawful term of confinement.

{¶11} Plaintiff claims that his 1984 and 1990 sentences should not have been served consecutively, but the uncontroverted affidavit testimony submitted by Defendant establishes that Plaintiff was on parole under the 1984 sentence when he was sentenced on the new felony in 1990. And at the time of his sentencing in 1990, “[f]ormer Ohio Revised Code § 2929.41 (B)(3) provided that ‘[a] sentence of imprisonment shall be served consecutively to any other sentence of imprisonment . . . [w]hen it is imposed for a new felony committed by a probationer, parolee, or escapee.’” *Hayden v. Mohr*, 2016 U.S. Dist. LEXIS 132697, *1-2, fn. 1 (S.D. Ohio Sept. 27, 2016); see also *Hayden v. Mohr*, 2017 U.S. App. LEXIS 18809 (6th Cir. May 4, 2017) (“Hayden committed a new felony while he was on parole. At the time of his conviction, Ohio law consequently mandated that Hayden’s 10-to-25 year sentence for rape be served consecutively to his 5-to-15 year sentence for attempted rape.”). Whether or not the 1990 sentencing entry stated that Plaintiff was to serve the 10-to-25-year sentence imposed at that time consecutively with the unexpired 5-to-15-year prison term from which he had been paroled, “when a sentencing entry does not state the prison term being imposed on the offender is to run concurrently with another sentence imposed on the offender and the applicable statutory law mandates consecutive service, ODRC has the authority to apply the statutory law in determining sentence expiration.” *Dailey v. Ohio Dept. of Rehab. & Corr.*, 2018-Ohio-3500, ¶ 17 (10th Dist.).

{¶12} Accordingly, Defendant has demonstrated that it properly calculated the expiration of Plaintiff’s aggregate term of imprisonment and at all times confined Plaintiff in accordance with the sentencing entries from the Montgomery County Common Pleas Court. Even when construing the evidence most strongly in Plaintiff’s favor, Plaintiff fails to demonstrate the existence of a genuine issue of material fact on his false imprisonment claim. Therefore, Defendant is entitled to judgment as a matter of law.

Conclusion

{¶13} Based on the foregoing, Defendant's Motion for Summary Judgment is GRANTED, Plaintiff's Motion for Summary Judgment is DENIED, and judgment is hereby 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.

LISA L. SADLER
Judge

Filed January 22, 2025
Sent to S.C. Reporter 2/18/25