

[Cite as *MacConnell v. Ohio Dept. of Rehab. & Corr.*, 2012-Ohio-283.]
IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Rion T. MacConnell,	:	
	:	
Plaintiff-Appellant,	:	
	:	No. 11AP-572
v.	:	(C.C. No. 2009-01221)
	:	
Ohio Department of Rehabilitation and	:	(REGULAR CALENDAR)
Correction,	:	
	:	
Defendant-Appellee.	:	
	:	

D E C I S I O N

Rendered on January 26, 2012

Swope and Swope – Attorneys at Law, and Richard F. Swope, for appellant.

Michael DeWine, Attorney General, Jennifer Anne Adair, and Kristin S. Boggs, for appellee.

APPEAL from the Court of Claims of Ohio.

FRENCH, J.

{¶1} Plaintiff-appellant, Rion T. MacConnell ("MacConnell"), appeals the judgment of the Court of Claims of Ohio, which held that defendant-appellee, the Ohio Department of Rehabilitation and Correction ("ODRC"), did not falsely imprison him. For the following reasons, we affirm.

I. BACKGROUND

{¶2} The parties presented the following evidence during the trial on MacConnell's false imprisonment claim against ODRC. On March 30, 2006, the Greene County Court of Common Pleas sentenced MacConnell to two years in prison in case No. 2005-CR-919. MacConnell had 69 days of jail-time credit pursuant to the sentencing entry. He started serving his sentence on April 6, 2006, and ODRC determined that his prison term expired on January 26, 2008.

{¶3} On August 30, 2006, the Montgomery County Court of Common Pleas sentenced MacConnell to two years in prison with ten days of jail-time credit in case No. 2005-CR-4177. On that same date, the Montgomery County court sentenced him to one year in prison with no jail-time credit in case No. 2006-CR-582 and six months in prison with no jail-time credit in case No. 2006-CR-200. The court ordered him to serve the sentence in case No. 2006-CR-200 consecutive to the sentences in case Nos. 2006-CR-582 and 2005-CR-4177, and it ordered him to serve the sentence in case No. 2005-CR-4177 concurrently with the sentence in case No. 2006-CR-582. In addition, the court ordered him to serve the sentences in the Montgomery County cases concurrently with his sentence in the Greene County case.

{¶4} Thereafter, ODRC recalculated MacConnell's release date to be February 14, 2009. ODRC applied the jail-time credit specified by the Montgomery County court, but it did not apply the jail-time credit from the Greene County case to the Montgomery County cases.

{¶5} MacConnell obtained judicial release for the Greene County case on December 13, 2006. ODRC did not change MacConnell's release date, however, because he was still serving the sentence for the Montgomery County cases.

{¶6} MacConnell told officials at ODRC that the Montgomery County court miscalculated his jail-time credit, but they told him to seek redress in court. Consequently, in October 2008, MacConnell filed a motion to correct jail-time credit in the Montgomery County court. On November 6, 2008, the court granted the motion and issued entries stating that MacConnell had 133 days of jail-time credit in case No. 2005-CR-4177 and 124 days of jail-time credit in case No. 2006-CR-200. The court based its calculations on the time MacConnell spent in Montgomery County jail before final disposition on each case. ODRC received the court's entries on November 12, 2008, and it released MacConnell that day because, due to the change in jail-time credit, his prison term expired on September 16, 2008.

{¶7} Before the Court of Claims, MacConnell argued that ODRC falsely imprisoned him by confining him longer than it was privileged to do so. He claimed that the false imprisonment occurred because ODRC failed to do the following: (1) check the accuracy of the Montgomery County court's original jail-time credit calculation; (2) apply jail-time credit from the Greene County case to the Montgomery County cases; and (3) help him file a jail-time credit challenge in the Montgomery County court. The Court of Claims rejected MacConnell's assertions and held that ODRC did not falsely imprison him.

II. ASSIGNMENTS OF ERROR

{¶8} MacConnell filed a timely notice of appeal and now assigns the following as error:

[I.] THE TRIAL COURT ERRED IN RULING STATE V. FUGATE, 117 OHIO ST.3D 261, 2008-OHIO-856, DID NOT REQUIRE DEFENDANT-APPELLEE, OHIO DEPARTMENT OF REHABILITATION AND CORRECTION, TO GIVE PLAINTIFF-APPELLANT 69 DAYS OF JAIL TIME CREDIT FROM THE GREENE COUNTY CASE HE WAS SERVING WITH HIS MONTGOMERY COUNTY CONVICTION.

[II.] THE TRIAL COURT ERRED IN RULING DEFENDANT-APPELLEE OHIO DEPARTMENT OF REHABILITATION AND CORRECTION DID NOT HAVE A DUTY TO AT LEAST ADVISE APPELLANT TO UTILIZE THE FORM AVAILABLE TO QUESTION THE SENTENCING COURT REGARDING JAIL TIME.

[III.] THE TRIAL COURT'S DECISION IS AGAINST THE MANIFEST WEIGHT OF THE EVIDENCE AND IS CONTRARY TO LAW.

III. DISCUSSION

{¶9} In his three assignments of error, MacConnell asserts that we must reverse the Court of Claims' holding that ODRC did not falsely imprison him. We disagree.

{¶10} MacConnell contends that the court's ruling is contrary to the manifest weight of the evidence. We will not disturb a judgment as against the manifest weight of the evidence if it is supported by competent, credible evidence going to all of the essential elements of a claim. *C.E. Morris Co. v. Foley Constr. Co.*, 54 Ohio St.2d 279, 280, 376 N.E.2d 578 (1978).

{¶11} 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.' " *Feliciano v. Kreiger*, 50 Ohio St.2d 69, 71, 362 N.E.2d 646 (1977), quoting 1 Harper and James, *The Law of Torts*, Section 3.7, 226 (1956). "[T]he state may be held liable for the false imprisonment of its prisoners." *Bennett v. Ohio Dept. of Rehab. & Corr.*, 60 Ohio St.3d 107, 110, 573 N.E.2d 633 (1991).

{¶12} MacConnell argues that ODRC imprisoned him longer than it was privileged to because it did not check the accuracy of the Montgomery County court's original jail-time credit calculation. But ODRC has no duty to determine whether a court's jail-time credit calculation is correct. *Williams v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 09AP-77, 2009-Ohio-3958, ¶ 15. Therefore, although the Montgomery County court amended its jail-time credit calculation, ODRC need not have second-guessed the court when it made the original calculation. See *id.* at ¶ 15-16.

{¶13} MacConnell also contends that *State v. Fugate*, 117 Ohio St.3d 261, 2008-Ohio-856, 883 N.E.2d 440, required ODRC to apply jail-time credit from the Greene County case to the Montgomery County cases. ODRC was not obligated to apply jail-time credit in that manner, however, because there was no court entry ordering it to do so. See *Williams* at ¶ 15-16. See also *Bell v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 10AP-920, 2011-Ohio-6559, ¶ 16-20 (holding that ODRC had no duty to decide whether *Fugate* applied to a prisoner's sentence).

{¶14} Next, MacConnell asserts that he was falsely imprisoned due to ODRC's failure to help him file a jail-time credit challenge in the Montgomery County court.

Under Ohio Adm.Code 5120-2-04(H), however, the prisoner is responsible for raising a jail-time credit challenge in the sentencing court, and the rule imposes no obligation on ODRC in that process. See *Trice v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. No. 07AP-828, 2008-Ohio-1371, ¶ 17. Furthermore, MacConnell's claim fails given that he was able to file a successful jail-time credit challenge on his own.

{¶15} In the final analysis, ODRC was privileged to confine MacConnell from the beginning of his prison term on April 6, 2006, until the date it released him on November 12, 2008, after being informed that the prison term expired due to the Montgomery County court's recalculation of jail-time credit. See *Williams* at ¶ 16. Accordingly, the Court of Claims' conclusion that ODRC did not falsely imprison MacConnell was not against the manifest weight of the evidence. In addition, for the reasons we have already discussed, we reject MacConnell's alternative arguments that the Court of Claims erred by concluding that ODRC was not required to apply jail-time credit from the Greene County case to the Montgomery County cases, and that ODRC did not have a duty to help him file a jail-time credit challenge in court. Therefore, we overrule MacConnell's three assignments of error.

IV. CONCLUSION

{¶16} Having overruled each of MacConnell's assignments of error, we affirm the judgment of the Court of Claims of Ohio.

Judgment affirmed.

KLATT and TYACK, JJ., concur.
