

IN THE COURT OF CLAIMS OF OHIO

PAUL HATCHER	:	
3017 Euclid Avenue	:	
Cincinnati, Ohio 45219	:	Case No. 2002-08351-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
DEPARTMENT OF REHABILITATION	:	
AND CORRECTION	:	
Defendant	:	

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For Defendant: Gregory C. Trout, Chief Counsel
 Department of Rehabilitation and
 Correction
 1050 Freeway North
 Columbus, Ohio 43229

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{¶1} Plaintiff, Paul Hatcher, a former inmate under the custody of defendant, Department of Rehabilitation and Correction, filed a complaint alleging he was falsely imprisoned beyond the expiration date of his criminal sentence. Plaintiff asserted he should have been released from defendant's custody on September 4, 2002, or September 3, 2002, rather than his actual release date of September 9, 2002. Essentially plaintiff contended defendant failed to grant him sufficient jail time credit for time spent in the Hamilton County jail. Plaintiff maintained defendant timely received orders from the Hamilton County Court of Common Pleas granting him jail time credit. However, according to plaintiff, defendant ignored these orders granting jail time credit until September 9, 2002 when he was

released from incarceration. Plaintiff argued he was falsely imprisoned for five days and he consequently seeks recovery of \$1,275.00 in damages for time he was incarcerated beyond the expiration of his sentence.

{¶2} Records indicated plaintiff had been granted fourteen days jail time credit when he arrived at defendant's Pickaway Correctional Institution (PCI) on April 2, 2002, to serve a six-month sentence. Adding an additional eleven days of convey time, defendant calculated plaintiff's sentence reduction at twenty-five days. On August 23, 2002, defendant received an entry from the sentencing court granting plaintiff a total of two days jail time credit plus conveyance time to defendant's facility. Defendant related this entry actually reduced plaintiff's total jail time credit from twenty-five days to thirteen days. On September 9, 2002, defendant received an amended entry from the sentencing court adjusting plaintiff's jail time credit from two days to sixteen days. Upon verifying this amended entry, defendant recalculated plaintiff's sentence and determined plaintiff's release date was September 3, 2002, a date occurring six days prior to the receipt of the amended entry awarding additional jail time credit. Plaintiff was released from custody on the same day defendant received the amended jail time credit entry from the sentencing court.

{¶3} The Supreme Court of Ohio stated: "In the absence of an intervening justification, a person may be found liable for the tort of false imprisonment if he or she intentionally continues to confine another despite knowledge that the privilege initially justifying that confinement no longer exists." *Bennett v. Department of Rehabilitation and Corrections* (1991), 60 Ohio St. 3d 107, paragraph one of the syllabus. Only the trial court can determine the number of days a prisoner is entitled to be credited to his sentence for confinement in jail pending trial or sentencing. *State ex rel Corder v. Wilson* (1991), 68 Ohio App. 3d

567.

{¶4} In the instant action, the sentencing court forwarded three separate distinct, disparate entries regarding jail time credit to be awarded to plaintiff. Concerning actual credit, the second entry effectively superseded the first entry with the third entry superseding the second entry. Until the sentencing court made its final determination of jail time credit for plaintiff, defendant had no knowledge that the privilege initially justifying the confinement of plaintiff no longer existed. *Corder v. Department of Rehabilitation and Corrections* (1994), 94 Ohio App. 3d 315. Therefore, this court finds that plaintiff was properly confined. Also, defendant did not continue to confine plaintiff after it had knowledge that the privilege justifying the confinement no longer existed. Plaintiff has failed to prove he was falsely imprisoned.

{¶5} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶6} IT IS ORDERED THAT:

{¶7} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶8} 2) The court shall absorb the court costs of this case in excess of the filing fee.

DANIEL R. BORCHERT
Deputy Clerk