

**ORIGINAL**  
IN THE OHIO COURT OF CLAIMS

FILED  
COURT OF CLAIMS  
OF OHIO

2015 JUN 19 PM 3:

TERRY SWALLEY

Plaintiff

v.

THE STATE OF OHIO

Defendant

Case No. 2014-00854-WI

Judge Patrick M. McGrath

JOINT STIPULATION  
IN LIEU OF TRIAL

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The parties agree and stipulate as follows:

1. That Plaintiff Terry Swalley was conveyed into the custody and control of the Ohio Department of Rehabilitation and Correction on February 3, 2010 in the matter identified as Ashtabula County Common Pleas Court No. 2009 CR 92.
2. That Plaintiff Terry Swalley was released from the custody and control of the Ohio Department of Rehabilitation and Correction on May 9, 2011 in the matter identified as Ashtabula County Common Pleas Court No. 2009 CR 92.
3. That, on November 25, 2013, Judge Alfred W. Mackey issued a Judgment Entry in Ashtabula County Common Pleas Court No. 2012 CV 20 finding that, premised upon the facts in the matter identified as Ashtabula County Common Pleas Court No. 2009 CR 92, Plaintiff Terry Swalley met the criteria under R.C. 2743.48(A)(1) through (5) and was a wrongfully imprisoned individual as defined in R.C. 2743.48.
4. That, as a result of Judge Mackey's November 25, 2013 Judgment Entry, Plaintiff Terry Swalley was wrongfully incarcerated for a total of 461 days related to the matter identified as Ashtabula County Common Pleas Court No. 2009 CR 92.

5. Attorney Ariana E. Tarighati represented Mr. Swalley in the underlying criminal matter identified as Ashtabula County Common Pleas Court No. 2009 CR 92 and the appeal that vacated his criminal conviction in that matter, as well as the declaratory action where Mr. Swalley was declared a wrongfully imprisoned individual identified as Ashtabula County Common Pleas Court No. 2012 CV 20. Ms. Tarighati is also counsel of record for Plaintiff in this lawsuit. As a result of her efforts in those matters, Ms. Tarighati has expended 155 hours at her rate of \$250 per hour. Therefore, Mr. Swalley has incurred \$38,750 in attorney's fees in connection with all associated criminal proceedings and appeals, which are reasonable and recoverable under R.C. 2743.48(E)(2)(a).

6. As a result of his 461 days of wrongful imprisonment, Mr. Swalley is entitled to \$63,585.72 under R.C. 2743.48(E)(2)(b). However, on March 17, 2015, pursuant to R.C. 2743.48(B)(4) and this Court's January 29, 2015 Entry of Partial Judgment, Mr. Swalley received \$31,792.86, which accounts for fifty per cent of the amount described in division R.C. 2743.48(E)(2)(b).

7. Mr. Swalley suffered no loss of wages, salary or other earned income that directly resulted from his arrest, prosecution, conviction, and wrongful imprisonment that would be recoverable under R.C. 2743.48(E)(2)(c).

8. The Ohio Department of Rehabilitation and Correction did not deduct any costs from Mr. Swalley during his wrongful incarceration that would be recoverable under R.C. 2743.48(E)(2)(d).

9. Mr. Swalley currently owes Five Thousand Four Hundred Eighty Four Dollars and Eighty Two Cents (\$5,484.82) in court costs to the Ashtabula County Clerk of Courts for

past convictions, which are unrelated to the underlying criminal matter, identified as Ashtabula County Common Pleas Court No. 2009 CR 92, for which he was wrongfully convicted.

**WHEREFORE**, based on the facts contained in this Joint Stipulation, the parties request that the Court issue a judgment entry in lieu of trial. In addition, the parties ask that this Court reduce any amount awarded to Mr. Swalley as a result of this Joint Stipulation by Five Thousand Four Hundred Eighty Four Dollars and Eighty Two Cents (\$5,484.82) and to order that a warrant be issued in that amount to the Ashtabula County Clerk of Courts.

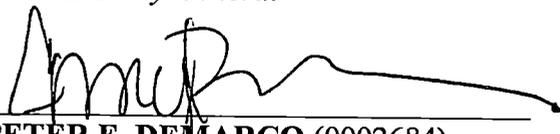
Respectfully submitted,

 (Signed with permission by Amy S. Brown 0079650)

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