

**ORIGINAL** IN THE COURT OF CLAIMS OF OHIO

FILED  
COURT OF CLAIMS  
OF OHIO

2015 OCT 22 AM 11:23

JACK M. DEMPSEY,

Plaintiff,

vs.

STATE OF OHIO,

Defendant.

CASE NO.

JUDGE

2015-00909

PLAINTIFF'S MOTION  
PURSUANT TO O.R.C.  
§2743.48(B)(3) FOR  
PRELIMINARY JUDGMENT  
OF 50% OF THE SUM  
DESCRIBED IN O.R.C.  
§2743.48(E)(2)(b)

WI

Pursuant to O.R.C. §2743.48(B)(3), Jack Dempsey, by and through counsel, hereby moves this Court to order the Clerk of Courts to forward a preliminary judgment to the president of the controlling board requesting the payment to Jack Dempsey of fifty percent of the amount described in O.R.C. §2743.48(E)(2)(b).

The Cuyahoga County Court of Common Pleas entered a judgment finding Mr. Dempsey a wrongfully imprisoned individual on July 30, 2015. The Court denied Defendant's motion for a new trial on October 5, 2015. A certified copy of each entry was filed with this Court in Mr. Dempsey's Complaint, which was filed concurrently with this Motion.

Mr. Dempsey was a wrongfully imprisoned individual in state correctional institutions from September 30, 1996 until August 18, 2003.

Mr. Dempsey now respectfully requests payment pursuant to O.R.C. §2743.48(B)(3) in the amount of \$178,598.94, which is fifty percent of six years and 322 days, where according to O.R.C. §2743.48(E)(2)(b) the additional days beyond six years are prorated from the \$51,901.58 yearly figure, resulting in a payment of \$142.19 per day.

Accordingly, Dempsey respectfully moves this Court to order the Clerk's Office to forward the preliminary judgment for the sum of \$178,598.31 to the controlling board immediately so that Mr. Dempsey's matter can be added to the agenda at the next meeting of the controlling board.

A copy of a Journal Entry is attached hereto.

Respectfully submitted,



Robert T. Glickman (0059579)

Susan C. Stone (0064445)

Danielle G. Garson (0092628)

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McCARTHY, LEBIT, CRYSTAL

& LIFFMAN CO., L.P.A.

101 West Prospect Avenue, Ste. 1800

Cleveland, Ohio 44115

(216) 696-1422 (Phone)

(216) 696-1210 (Fax)

Attorneys for Plaintiff, Jack M. Dempsey

**CERTIFICATE OF SERVICE**

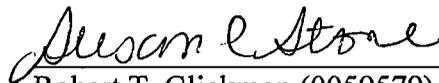
I hereby certify that on October 21, 2015 a copy of the foregoing was sent by U.S. Mail to

the following:

Mike Dewine  
Ohio Attorney General  
30 East Broad Street, 17th Floor  
Columbus, OH 43215.

and

Brian Gutkoski, Esq.  
Dale Pelsozy, Esq.  
Assistant Prosecuting Attorneys  
The Justice Center, Courts Tower  
1200 Ontario Street, 8<sup>th</sup> Floor  
Cleveland, Ohio 44113



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Robert T. Glickman (0059579)  
Susan C. Stone (0064445)  
Danielle G. Garson (0092628)

(802555)

IN THE COURT OF CLAIMS OF OHIO

<b>JACK M. DEMPSEY,</b>	)	<b>CASE NO.</b>
	)	
Plaintiff,	)	<b>JUDGE</b>
	)	
vs.	)	
	)	
<b>STATE OF OHIO,</b>	)	
	)	
Defendant.	)	

**JOURNAL ENTRY APPROVING DISBURSEMENT OF 50% OF THE SUM DESCRIBED IN R.C. §2743.48(E)(2)(b)**

The Court, being fully advised as to the premises, approves and confirms the preliminary judgment and disbursement of 50% of the sum described in R.C. §2743.48(E)(2)(b) for 6 years and 322 days of Jack Dempsey’s wrongful imprisonment.

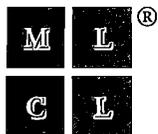
The partial settlement warrant shall be drawn on the account of the State of Ohio for the sum of One Hundred Seventy-Eight Thousand Five Hundred and 94/100 Dollars (\$178,598.94) payable to “McCarthy, Lebit, Crystal & Liffman Co., L.P.A.”, and this amount will be deposited into McCarthy, Lebit, Crystal & Liffman’s IOLTA account for payment to Jack Dempsey.

The Court, being fully advised as to the premises, also approves and confirms the preliminary judgment and disbursement of 50% of the sum described in R.C. §2743.48(E)(2)(b) for Jack Dempsey’s wrongful imprisonment.

These warrants shall be sent in care of

Robert T. Glickman, Esq.  
McCarthy, Lebit, Crystal & Liffman Co., L.P.A.  
101 West Prospect Avenue, Suite 1800  
Cleveland, Ohio 44115-1088

IT IS SO ORDERED



McCARTHY, LEBIT, CRYSTAL & LIFFMAN CO., L.P.A.  
*Attorneys and Counselors at Law*

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Robert T. Glickman  
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October 20, 2015

Clerk of Courts  
Court of Claims of Ohio  
The Ohio Judicial Center  
65 South Front Street, Third Floor  
Columbus, Ohio 43215

Re: *Dempsey v. State of Ohio*

Dear Clerk of Courts:

Under Ohio Revised Code §2743.48(B)(4), we are requesting the Clerk's Office to forward a preliminary judgment to the president of the controlling board requesting the payment to Jack Dempsey of fifty percent (50%) of the amount described in R.C. §2743.48(E)(2)(b).

Section (E)(2)(b) provides that wrongfully imprisoned individuals are entitled to payment of a sum of money for each year that they are wrongfully imprisoned. That amount is \$51,901.58 per year, as reflected by the current report of the auditor of state on file with this Court. Section (B)(4) provides that, within 60 days after the court of common pleas has entered determination that the individual qualifies as wrongfully imprisoned, "the clerk of the court of claims shall forward a preliminary judgment to the president of the controlling board requesting the payment of fifty percent of the amount described in division (E)(2)(b) of this section to the wrongfully imprisoned individual." R.C. §2743.48(B)(4). "The board shall take all actions necessary to cause the payment of that amount out of the emergency purpose special account of the board." *Id.*

Jack Dempsey was wrongfully imprisoned for approximately 7 years. To simplify the 50% calculation for the precise amount of time he was wrongfully imprisoned, Dempsey requests payment at this time for 6 years and 322 days. Based on this time of wrongful imprisonment, the 50% payment amount is \$178,598.31. Dempsey's request for \$178,598.31 comes with the understanding that prorated payment for his additional time of wrongful imprisonment will be added to his total judgment for damages upon the conclusion of his case. A complaint for the full and judgment is being filed with this motion.

October 21, 2015  
Clerk of Courts  
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To ensure timely payment within the 60-day timeframe, we are requesting the Clerk's office to forward the preliminary judgment for the sum of \$178,598.94 to the controlling board immediately so that Dempsey's matter can be added to the agenda at the next meeting of the controlling board.

Contemporaneously with the filing of Dempsey's Complaint against the State of Ohio and the service of this letter to the Clerk of Courts for the court of Claims, Dempsey also filed a motion with the Court of Claims to the effect of this letter, which is attached as an Exhibit.

If you require any additional information, do not hesitate to contact us.

Thank you for your assistance.

Very truly yours,

*Robert J. Glickman*  
Robert T. Glickman (RTS)

SCS/ram

cc: Brian Gutkoski, Esq.