

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Nathan A. Graham,	:	
Plaintiff-Appellant,	:	
v.	:	No. 10AP-605
Mansfield Correctional Institution,	:	(C.C. No. 2009-08993)
Defendant-Appellee.	:	(REGULAR CALENDAR)

D E C I S I O N

Rendered on February 3, 2011

Nathan A. Graham, pro se.

Mike DeWine, Attorney General, and *Amy S. Brown*, for appellee.

APPEAL from the Ohio Court of Claims

TYACK, J.

{¶1} On November 18, 2009, Nathan A. Graham filed a lawsuit against Mansfield Correctional Institution ("MCI") where he was incarcerated. He alleges that certain photographs of his had been taken and not returned to him. As part of his filing, he acknowledged filing 14 other lawsuits previously.

{¶2} Counsel for MCI alleged that Graham's photographs were photographs of nude, young women—perhaps juveniles. Counsel indicated that the photographs were

contraband for purposes of a penal institution and therefore subject to confiscation by prison authorities. As a result, counsel for MCI filed a motion for summary judgment.

{¶3} The trial court granted the motion for summary judgment, but granted Graham judgment for \$.45 which the trial court viewed as the value of the confiscated/lost photographs. Graham has appealed from that ruling, assigning three errors for our consideration:

I. THE TRIAL COURT ERRED IN GRANTING SUMMARY JUDGMENT TO THE DEFENDANT WHERE THE DEFENDANT ASSERTED IN ITS OWN FILINGS THAT GENUINE ISSUES OF MATERIAL FACT EXISTED, WHERE THE EVIDENTIARY MATERIALS SUBMITTED IN THE RECORD DEMONSTRATED GENUINE ISSUES OF MATERIAL FACT AND WHERE REASONABLE MINDS COULD COME TO DIFFERING CONCLUSIONS.

II. ABSENT CIVIL RULE 54(B) LANGUAGE THE TRIAL COURT ERRED IN NOT DISPOSING OF ALL CLAIMS CONTAINED IN APPELLANT'S COMPLAINT AGAINST APPELLEE'S.

III. JUDGEMENT ENTERED ON 5-28-2010 ON SUMMARY JUDGMENT IN THE COURT OF CLAIMS WAS NOT FINAL UNDER CIVIL RULE 54(B) AND THEREFORE NOT A JUDGEMENT SUFFICIENT TO CONFER JURISDICTION IN THIS COURT.

{¶4} The second and third assignments of error essentially allege that Graham was wrong to file an appeal because the case has not reached finality and a final appealable order has not been journalized. If Graham is correct, then this court has no jurisdiction over the case. We, therefore, address these assignments of error first.

{¶5} As noted in the brief filed on behalf of MCI, Graham's claim for consequential damages is not a separate claim but a request for full damages assuming

a legitimate claim for relief is otherwise set forth. The trial court addressed the issue of damages completely, finding that the photographs alleged by Graham in his complaint were actually photocopies of photographs, worth no more than the cost of the photocopying cost. In fact, all the issues of damages were addressed and a final judgment was rendered. A final appealable order was journalized and this court has jurisdiction to address the merits of Graham's appeal.

{¶6} The second and third assignments of error are overruled.

{¶7} The first assignment of error asserts that summary judgment as to the amount of damages was inappropriate and that the photocopies of photographs were worth over \$25,000.

{¶8} Graham acknowledges that he had sent the original photographs out of MCI and the items confiscated were photocopies acquired through the expenditure of \$.45. Under the circumstances, no genuine issues of material fact existed. Graham may believe the photocopies being held by prison authorities were highly valuable, but his belief does not prove that anyone would pay huge sums of money to acquire the photocopies. Stated differently, his belief did not create a genuine issue of material fact as to the value of the photocopies.

{¶9} The first assignment of error is overruled.

{¶10} Having overruled all the assignments of error, the judgment of the Ohio Court of Claims is affirmed.

Judgment affirmed.

CONNOR and DORRIAN, JJ., concur.
