

[Cite as *Raines v. Warren Corr. Inst.*, 1992-Ohio-268.]

IN THE COURT OF CLAIMS OF OHIO

GERALD L. RAINES, #171-058 :

Plaintiff :

v. :

WARREN CORRECTIONAL
INSTITUTION :

Defendant :

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Gerald L. Raines, #171-058
Pro se

Lee I. Fisher, Attorney General and
Ten Jo Ravetto, Esq.
for Defendant

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On June 15, 1992, a trial was conducted before the referee sitting at the Warren Correctional Institution (WCI). Plaintiff was an inmate at WCI on January 21, 1991, when he gave Sgt. Bolst, his correctional counselor, a package containing legal documents to be mailed. Plaintiff's package was returned to him by the post office damaged with numerous documents missing. Plaintiff asserts that defendant was negligent in handling his mail.

Defendant has the duty to use reasonable care when handling an inmate's property. *Gray v. Dept. of Rehab. and Corr.* (1985), Court of Claims No. 84.-01577-ADjud, unreported. Plaintiff has the

burden to prove by a preponderance of the evidence that he suffered a loss and that his loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), Court of Claims No. 76-0368-AD, unreported.

Defendant is not responsible for plaintiff's mail once it is shipped out of the facility. At that point, the item is the responsibility of the postal service, where it has procedures for tracing lost mail. *Owens v. Dept. of Rehab. and Corr.* (1986), Court of Claims No. 85-08061-AD, unreported. Additionally, the responsibility to obtain insurance for the item sent, if insurance is available for the item, would be that of the sender. *Id.*

Plaintiff gave his package to Sgt. Bolst who filled out a cash slip to deduct the amount of postage from plaintiff's prison account. Sgt. Bolst then took the package to the mail room where it was processed out for mailing.

The outgoing mail log at WCI indicates plaintiff's package was sent to the Lebanon Post Office (LPO), on January 23, 1991. LPO receives mail from WCI in bulk containers and then transfers the mail to its own container. LPO then sends the mail to the Cincinnati Bulk Mail Center.

Larry Webb, Postmaster of LPO, testified that his employees handle every package and if a package were in bad condition, LPO would not accept the package. Therefore, although it is possible

that plaintiff's package was damaged once it was logged out, it is highly improbable since LPO would not have accepted a damaged package.

Therefore, the referee finds that plaintiff has failed to prove by a preponderance of the evidence that his loss was proximately caused by defendant's negligence. Although sympathetic to plaintiff's position of having to go through two bureacracies to determine who damaged and lost his mail, the preponderance of the evidence indicates it was not defendant. This being the finding, it is recommended that judgment be rendered for defendant.

FRED D. GARTIN
Referee

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