

into the institution's regulation-size footlocker. Plaintiff complained that personal items were lost or not returned to him; that he spent \$6.50 in unnecessary postage costs for items that were sent home and returned to the institution; that he lost a lawsuit because he was prohibited from keeping certain legal materials in his footlocker; and that the staff lost or failed to return certain commissary items and cassette tapes valued at seven or eight dollars.

However, plaintiff admitted under cross-examination that after he filed his complaint, many of the items in question were returned to him. The only items not returned as of the date of trial appear to be mayonnaise, two cookies and a lock. Defendant's witness, Marc Bratton, a deputy warden at ACI, confirmed that he has worked with plaintiff to secure compliance with the institution's space policies and to facilitate the return of most of the property at issue. The only property not returned was considered either perishable or contraband.

Plaintiff complains that he lost \$6.50 in postage when he was forced to mail home property that did not fit into the regulation footlocker. Plaintiff contends that he informed ACI staff that he did not have a valid home address where he could send the property. He claimed that the property was mailed but was returned for lack of a valid address at a total loss to plaintiff of \$6.50.

Finally, plaintiff testified that because he was not permitted to keep certain legal materials in his cell, he lost a legal action. Plaintiff provided no testimony as to the nature

of the action, the specific materials he planned to use or a reason these materials were necessary to his case.

Defendant called Marc Bratton, Deputy Warden of Operations, Safety, and Security at ACI, who testified that it was his job to enforce the written policies of ODRC and ACI regarding the safety and security of the institution and the inmates.

Bratton testified that inmates at ACI are limited to personal property that fits a prison-issued locker no bigger than 2.42 cubic feet. Plaintiff's footlocker measured 2.46 cubic feet, slightly larger than the 2.42 cubic foot limitation. According to Deputy Warden Bratton, legal material may be kept by an inmate. However, ODRC Policy 204-01, Defendant's Exhibit 6, and the related Inmate Legal Materials DRC Policy 204-01 Worksheet, Defendant's Exhibit 4, require that an inmate relinquish one-half of his footlocker space to accommodate legal material before the institution will consider a request to provide additional storage space for such material. In other words, an inmate must give up some personal items in order to store legal materials.

According to the testimony, plaintiff arrived at ACI with more property than was permitted. On June 27, 2000, plaintiff's property was inventoried (Defendant's Exhibits 1 and 2) and the property that did not fit within the 2.46 cubic footlocker was stored by defendant. Defendant's Exhibit 3 reflects that on December 11, 2000, some of plaintiff's property was ordered to be mailed home at plaintiff's expense. However, the property was returned to the institution by the postal authorities, costing

what plaintiff perceives to be a loss of \$6.50 in unnecessary postage.

After considering the testimony of plaintiff, the testimony of the deputy warden and the exhibits presented by both parties, the court finds that plaintiff has failed to establish any of his claims by a preponderance of the evidence.

The court is of the opinion that ODRC and ACI established reasonable procedures to administer the acquisition, storage and disposition of inmate property. Defendant's policies are set out in minute detail and appear to have been followed to the letter.

There is no indication that the policies were administered by defendant to deprive plaintiff of his right to acquire or possess personal property to which he was entitled. In fact, Deputy Warden Bratton went out of his way to work with plaintiff to return almost all of his personal property and to make it fit within the limited confines of plaintiff's footlocker. The only property not returned to plaintiff by the time of the trial was either perishable or contraband.

The court finds that there is no credible evidence that defendant is responsible for plaintiff's losing his legal action.

Plaintiff could have had his legal materials in his footlocker if he were willing to comply with the ODRC policy regarding those materials. There is no credible evidence that failure to provide access to legal materials resulted in any alleged loss.

Finally, the court finds that defendant is not liable for postage costs that plaintiff may have incurred in sending property home. Defendant followed its policies regarding the

disposition of inmate property, which state that the inmate is responsible for postage.

Plaintiff has failed to prove any of his claims by a preponderance of the evidence, therefore, judgment is recommended for defendant.

STEVEN A. LARSON
Magistrate

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