

IN THE COURT OF CLAIMS OF OHIO

LUKE B. MECKSTROTH, #299-683 :
P.O. Box 120 :
Lebanon, Ohio 45036 : Case No. 2002-01608-AD

Plaintiff : MEMORANDUM DECISION

v. :

OHIO DEPARTMENT OF :
REHABILITATION AND CORRECTION :

Defendant :

: : : : : : : : : : : : : : :

For Defendant: Gregory C. Trout, Chief Counsel
Department of Rehabilitation and
Correction
1050 Freeway North
Columbus, Ohio 43229

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FINDINGS OF FACT

{¶1} 1) On or about August 23, 2001, plaintiff, Luke B. Meckstroth, an inmate incarcerated at defendant's Lebanon Correctional Institution (LECI), was transferred to an isolation unit. Plaintiff's personal property was inventoried, packed, and delivered into the custody of LECI staff incident to the transfer.

{¶2} 2) On September 18, 2001, plaintiff was transferred from LECI to defendant's Warren Correctional Institution (WCI). Incident to this transfer, plaintiff's personal property was reinventoried. After arriving at WCI plaintiff attempted to retrieve his personal property and discovered his typewriter,

wristwatch, and fan were damaged beyond repair. Plaintiff also asserted he discovered several articles of property were missing and had apparently not been forwarded to WCI from LECI.

{¶3} 3) Plaintiff indicated the following items were missing:

{¶4} 1 plug

{¶5} 1 ashtray

{¶6} 1 styling gel

{¶7} 5 body oils

{¶8} art supplies

{¶9} 1 adapter

{¶10} 4 packs of shoestrings

{¶11} 2 packs of dental floss

{¶12} 5 pens

{¶13} 1 bottle of antacid tablets.

{¶14} 4) Plaintiff filed this complaint seeking to recover \$196.41, the estimated value of his damaged and missing property. Plaintiff also seeks recovery of the \$25.00 filing fee.

{¶15} 5) Defendant admitted liability for plaintiff's property loss and damage. The defendant does not object to the court awarding appropriate damages in the instant claim.

{¶16} 6) Plaintiff filed a response insisting he is entitled to all damages claimed.

CONCLUSIONS OF LAW

{¶17} 1) Plaintiff has proven defendant's negligence

proximately caused his property loss and damage. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶18} 2) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶19} 3) Damage assessment is a matter within the function of the trier of fact. *Litchfield v. Morris* (1985), 25 Ohio App. 3d 42. Reasonable certainty as to the amount of damages is required, which is that degree of certainty of which the nature of the case admits. *Bemmes v. Pub. Emp. Retirement Sys. Of Ohio* (1995), 102 Ohio App. 3d 782.

{¶20} 4) A plaintiff is competent to testify with respect to the true value of his property. *Gaiter v. Lima Correctional Facility* (1988), 61 Ohio Misc. 2d 293.

{¶21} 5) The court finds defendant liable to plaintiff in the amount of \$196.41, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to the holding in *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

{¶22} Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

{¶23} IT IS ORDERED THAT:

{¶24} 1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

{¶25} 2) Defendant (Department of Rehabilitation and Correction) pay plaintiff (Luke B. Meckstroth) \$221.41 and such interest as is allowed by law;

{¶26} 3) Court costs are assessed against defendant.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
5/23
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