

IN THE COURT OF CLAIMS OF OHIO

ROBERT CHAMBERS, #155-773	:	
P.O. Box 45699	:	
Lucasville, Ohio 45699	:	Case No. 2002-02191-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
SOUTHERN OHIO CORRECTIONAL FACILITY	:	
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) Plaintiff, Robert Chambers, an inmate incarcerated at defendant, Southern Ohio Correctional Facility (SOCF), has alleged that on December 18, 2001, his cell was flooded by water backing up from a shower drain. Plaintiff explained his cell is located adjacent to the facility's shower.

{¶2} 2) Plaintiff asserted several items of his personal property were contaminated by water overflow. Plaintiff indicated his gym shoes, papers, book, cassette tape, envelopes, and two bags of potato chips were destroyed by the water back-up.

{¶3} 3) Plaintiff submitted a typed statement purportedly signed by an employee of defendant, identified as Unit Officer Glean. This statement relates plaintiff's cell was flooded on

December 18, 2001 and damaged items of plaintiff's personal property were observed. The statement contained information that an incident report concerning the cell flood was filed.

{¶4} 4) Plaintiff filed this complaint seeking to recover \$151.44, the estimated value of his alleged damaged property, plus a claim for filing fee reimbursement.

{¶5} 5) Defendant denied all of plaintiff's allegations. Defendant asserted there is no record of plaintiff's cell flooding and no record of plaintiff's property being water damaged. No SOCF personnel filed an incident report concerning any flood allegedly occurring on December 18, 2001. Additionally, defendant has asserted the document plaintiff submitted captioned "Statement of Unit Officer Glean" is fraudulent. Defendant maintained there is no one employed at SOCF identified as Officer Glean. Defendant does not have any reports or formal complaints on record concerning the alleged cell flood of December 18, 2001. Defendant denied causing any property damage.

CONCLUSIONS OF LAW

{¶6} 1) This court in *Mullett v. Department of Correction* (1976), 76-0292-AD, held that defendant does not have the liability of an insurer (i.e., is not liable without fault) with respect to inmate property, but that it does have the duty to make "reasonable attempts to protect, or recover" such property.

{¶7} 2) Plaintiff has the burden of proving, by a preponderance of the evidence, that he suffered a loss and that this loss was proximately caused by defendant's negligence. *Barnum v. Ohio State University* (1977), 76-0368-AD.

{¶8} 3) Plaintiff must produce evidence which affords a reasonable basis for the conclusion defendant's conduct is more likely than not a substantial factor in bringing about the harm. *Parks v. Department of Rehabilitation and Correction* (1985), 85-01546-AD.

{¶9} 4) Plaintiff has failed to prove, by a preponderance of

the evidence, he sustained any loss as a result of any negligence on the part of defendant. *Fitzgerald v. Department of Rehabilitation and Correction* (1998), 97-10146-AD.

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

{¶11} IT IS ORDERED THAT:

{¶12} 1) Plaintiff's claim is DENIED and judgment is rendered in favor of defendant;

{¶13} 2) Court costs are assessed against plaintiff.

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
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