

IN THE COURT OF CLAIMS OF OHIO

JAMIE TURNER, #364-871 :
P.O. Box 4501 :
Lima, Ohio 45802 : Case No. 2002-02728-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) During June, 2001, plaintiff, Jamie Turner, an inmate, was transferred from defendant, Southern Ohio Correctional Facility (SOCF), to the Allen Correctional Institution (ACI).

{¶2} 2) Plaintiff has alleged defendant's personnel at SOCF failed to forward his television set to ACI incident to his transfer. Plaintiff has asserted his television set was lost while under defendant's control.

{¶3} 3) Plaintiff filed this complaint seeking to recover \$300.00, the estimated value of his missing television set. On March 19, 2002, plaintiff submitted the filing fee.

{¶4} 4) Defendant denied plaintiff ever possessed a television set while incarcerated at either SOCF or ACI. Defendant contended no record exists showing plaintiff purchased or received

a television set. Defendant maintained plaintiff has failed to produce any evidence indicating he owned a television set.

{¶5} 5) A response was submitted with accompanying documentation. A copy of a commissary receipt from SOCF dated April 22, 1999 was introduced. This receipt signed by plaintiff and bearing plaintiff's name in type, establishes plaintiff purchased a television set from the SOCF commissary for \$232.00.

{¶6} 6) On June 19, 2002, plaintiff submitted a motion for extension of time to file a response to defendant's investigation report. However, a prior response filed by the plaintiff's parents supplied this court with sufficient documentation in order to make a decision in this matter.

{¶7} 7) The trier of fact finds defendant's assertions are not persuasive. Further, the trier of fact finds plaintiff's television set was, in all probability, lost while under the control of defendant's staff.

CONCLUSIONS OF LAW

{¶8} 1) 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.

{¶9} 2) 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.

{¶10} 3) Plaintiff has proven defendant's negligence proximately caused his property loss. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶11} 4) 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.

{¶12} 5) 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.

{¶13} 6) 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.

{¶14} 7) The court finds defendant liable to plaintiff in the amount of \$232.00, plus the \$25.00 filing fee, which may be reimbursed as compensable damages pursuant to *Bailey v. Ohio Department of Rehabilitation and Correction* (1990), 62 Ohio Misc. 2d 19.

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

{¶16} IT IS ORDERED THAT:

{¶17} 1) Plaintiff's motion for extension of time is DENIED;

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

{¶19} 3) Defendant (Southern Ohio Correctional Facility) pay plaintiff (Jamie Turner) \$257.00 and such interest as is allowed by law;

{¶20} 4) Court costs are assessed against defendant.

DANIEL R. BORCHERT

RDk/laa Deputy Clerk
7/8
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