

[Cite as *Abdullah v. London Correctional Inst.*, 2002-Ohio-4607.]

IN THE COURT OF CLAIMS OF OHIO

SHARIF ABDULLAH, #317-810 :
P.O. Box 69 :
London, Ohio 43140 : Case No. 2002-02841-AD

Plaintiff : MEMORANDUM DECISION

v. :

LONDON CORRECTIONAL :
INSTITUTION :

Defendant :

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

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

FINDINGS OF FACT

{¶1} 1) On or about November 3, 2001, an employee of defendant, London Correctional Institution, confiscated four books from the possession of plaintiff, Sharif Abdullah, an inmate.

{¶2} 2) The books were either destroyed by defendant or lost while under defendant's control.

{¶3} 3) Plaintiff filed this complaint seeking to recover \$79.20, the estimated value of the destroyed books. Plaintiff submitted the filing fee with the complaint.

{¶4} 4) Defendant acknowledged books were confiscated from plaintiff's possession. Defendant admitted the confiscated books were lost. Defendant denied liability for the loss of the books based on the contention plaintiff has not submitted sufficient proof to show he legally possessed the items. The trier of fact

disagrees.

CONCLUSIONS OF LAW

{¶5} 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.

{¶6} 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.

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

{¶8} 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.

{¶9} 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.

{¶10} 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.

{¶11} 7) The court finds defendant liable to plaintiff in the amount of \$40.00, 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.

{¶12} Having considered all the evidence in the claim file and

adopting the memorandum decision concurrently herewith;

{¶13} IT IS ORDERED THAT:

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

{¶15} 2) Defendant (London Correctional Institution) pay plaintiff (Sharif Abdullah) \$65.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
6/11
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