

IN THE COURT OF CLAIMS OF OHIO

JERRY LEE REYNOLDS, #283-281 :  
 1990 Harmon Avenue :  
 Columbus, Ohio 43223 : Case No. 2002-03082-AD

Plaintiff : MEMORANDUM DECISION

v. :

ORIENT CORRECTIONAL :  
 INSTITUTION :

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 February 11, 2002, plaintiff, Jerry Lee Reynolds, an inmate incarcerated at defendant, Orient Correctional Institution, was medically transferred to the Frazier Health Center.

{¶2} 2) Incident to his transfer, plaintiff's personal property was packed and delivered into the custody of defendant's personnel.

{¶3} 3) Plaintiff has alleged defendant's personnel failed to secure all his property. Plaintiff has further alleged several items of his personal property were either lost or stolen as a proximate cause of defendant's failure to timely pack the property.

{¶4} 4) Plaintiff indicated the following articles are missing: two bowls, one blanket, one dictionary, three cassette

tapes, five legal pads, two can openers, a coffee mug, a typewriter, two typewriter ribbons, and three correction cassettes.

Plaintiff filed this complaint seeking to recover \$250.81, the stated replacement cost of his missing property. Plaintiff submitted the filing fee with the complaint.

{¶5} 5) Defendant maintained no documentation was available regarding the circumstances of this claim. The closure of defendant's institution and displacement of institution staff members posed difficulties in fully investigating the present matter. Defendant related plaintiff's missing property has not been located. Defendant stated, "the Investigator's Report, indicates that Defendant has not recovered Inmate Reynolds property and does not possess information regarding the allegations raised in the complaint. Therefore, Defendant respectfully defers judgment to the Court to determine a reasonable resolution to this matter".

{¶6} 6) Plaintiff filed a response contending he is entitled to all damages claimed based on defendant's failure to offer a defense for the allegations based in the complaint. Plaintiff reasserted defendant is responsible for his property loss.

{¶7} 7) On July 29, 2002, plaintiff filed a motion for summary judgment.

#### CONCLUSIONS OF LAW

{¶8} 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.

{¶9} 2) Although not strictly responsible for a prisoner's property, defendant had at least the duty of using the same degree of care as it would use with its own property. *Henderson v. Southern Ohio Correctional Facility* (1979), 76-0356-AD.

{¶10} 3) 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.

{¶11} 4) The court finds, by a preponderance of the evidence, negligence by the defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD.

{¶12} 5) Defendant is liable to plaintiff in the amount of \$250.81, 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.

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

{¶14} IT IS ORDERED THAT:

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

{¶16} 2) Defendant (Orient Correctional Institution) pay plaintiff (Jerry Lee Reynolds) \$275.81 and such interest as is allowed by law;

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

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DANIEL R. BORCHERT  
Deputy Clerk