

[Cite as *McElrath v. Ohio Dept. of Rehab. & Corr.*, 2002-Ohio-4639.]

IN THE COURT OF CLAIMS OF OHIO

DARION MCELRATH, #A314-523	:	
P.O. Box 788	:	
Mansfield, Ohio 44901	:	Case No. 2002-04917-AD
Plaintiff	:	MEMORANDUM DECISION
v.	:	
DEPT. OF REHABILITATION AND	:	
CORRECTIONS	:	
Defendant	:	

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

For Defendant: Margaret Bagley, Warden  
Mansfield Correctional Institution  
1000 North Main Street  
Mansfield, Ohio 44903  
: : : : : : : : : : : : : : :

THE COURT FINDS THAT:

- "1) On May 14, 2002, plaintiff, Darion McElrath, filed a complaint against defendant, Department of Rehabilitation and Correction, alleging his property items were lost while under defendant's control. Plaintiff seeks damages in the amount of \$14.34. Plaintiff submitted the filing fee with his complaint;
- "2) On May 14, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$14.34.

THE COURT CONCLUDES THAT:

"1) I find, by a preponderance of the evidence, negligence by defendant has been shown. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD; *Stewart v. Ohio National Guard* (1979), 78-0342-AD;

"2) Plaintiff has suffered damages in the amount of \$14.34, 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.

Having considered all the evidence in the claim file and adopting the memorandum decision concurrently herewith;

IT IS ORDERED THAT:

"1) Plaintiff's claim is GRANTED and judgment is rendered in favor of the plaintiff;

"2) Defendant (Department of Rehabilitation and Correction) pay plaintiff (Darion McElrath) \$39.34 and such interest as is allowed by law;

"3) The court shall absorb the court costs of this case.

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DANIEL R. BORCHERT  
Deputy Clerk

RDK/laa  
5/29  
Filed 6/12/02  
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