

IN THE COURT OF CLAIMS OF OHIO

PERCY HUTTON, #195-620 :
P.O. Box 788 :
Mansfield, Ohio 44901 : Case No. 2002-02370-AD

Plaintiff : MEMORANDUM DECISION

v. :

MANSFIELD CORRECTIONAL INST. :

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 December 26, 2000, mail room personnel at defendant, Mansfield Correctional Institution, received a calendar and holiday greeting cards intended for plaintiff, Percy Hutton, an inmate.

{¶2} 2) According to plaintiff, the calendar and cards were declared contraband and confiscated. The confiscated items were subsequently destroyed.

{¶3} 3) Consequently, plaintiff filed this complaint seeking to recover \$27.73, the replacement cost of the destroyed calendar and cards.

{¶4} 4) Defendant acknowledged mail room personnel received a calendar and holiday greeting cards intended for plaintiff on December 26, 2000. Defendant admitted liability for the loss of the calendar. Defendant indicated the calendar and cards were

destroyed. Defendant did not submit any documentation authorizing the destruction of the articles received on December 26, 2000.

{¶5} 5) On July 18, 2002, plaintiff filed a motion for extension of time to submit an affidavit from Barbara Hilton.

{¶6} 6) On August 1, 2002, plaintiff submitted a response to defendant's investigation report.

{¶7} 7) On August 2, 2002, plaintiff submitted an affidavit from Barbara Hilton.

CONCLUSIONS OF LAW

{¶8} 1) An inmate plaintiff may recover the value of confiscated property destroyed by agents of defendant when those agents acted without authority or right to carry out the property destruction. *Berg v. Belmont Correctional Institution* (1998), 97-09261-AD. Plaintiff has essentially proven defendant's agents destroyed his property without any right or authorization. Consequently, liability shall attach. Defendant is liable to plaintiff in the amount of \$27.73.

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

{¶10} IT IS ORDERED THAT:

{¶11} 1) Plaintiff's motion for extension of time is MOOT;

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

{¶13} 3) Defendant (Mansfield Correctional Institution) pay plaintiff (Percy Hutton) \$27.73 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk