

IN THE COURT OF CLAIMS OF OHIO

RODNEY NICHOLS, #359-840 :
1001 Olivesburg Road :
Mansfield, Ohio 44901 : Case No. 2002-03686-AD

Plaintiff : MEMORANDUM DECISION

v. :

TRUMBULL 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 September 24, 2001, plaintiff, Rodney Nichols, an inmate, was transferred from defendant, Trumbull Correctional Institution (TCI), to Richland Correctional Institution.

{¶2} 2) Plaintiff stated approximately eighty commissary items were confiscated from his possession by TCI staff in preparation for his transfer. Plaintiff indicated the confiscated property items, which mainly consisted of cigarettes, food stuffs, and toiletries were never returned.

{¶3} 3) Plaintiff inventoried the confiscated articles as: 33 packs of cigarettes, 2 bags of coffee, 3 deodorants, 1 hair grease, 2 cocoa butter lotions, 5 bars of soap, 3 shampoos, 4 tubes

of toothpaste, 1 foot powder, 2 baby powders, 1 baby oil, 1 petroleum jelly, 15 instant soups, 2 pepperonis, 2 Velveeta, 1 grape drink, and 3 beef sausages.

{¶4} 4) Plaintiff filed this complaint seeking to recover \$173.61, the estimated replacement value of his confiscated commissary items. Plaintiff submitted the filing fee with the complaint.

{¶5} 5) Defendant acknowledged the following items were confiscated from plaintiff's possession: 30 packs of cigarettes, 2 bags of coffee, 1 skin cream, 3 deodorants, 3 hair grease, 1 skin lotion, 4 bars of soap, 1 toothbrush, 4 tubes of toothpaste, 13 instant soups, 1 rice mix, 3 cans of chili, 1 jack macarel, 5 summer sausages, 1 jar of mayonnaise, 2 jars of honey, 1 jar of jalapeno peppers, 1 Velveeta, 1 baby powder, 1 foot powder, 2 batteries, 2 anti-fungal cream, 1 petroleum jelly, 1 pack of gum, 2 laundry detergent, and 1 cocoa butter. Defendant valued this property at \$157.74. Defendant stated all property confiscated is currently stored at TCI.

{¶6} 6) Plaintiff filed a response.

{¶7} 7) The trier of fact finds plaintiff rightfully owned all property items confiscated.

CONCLUSIONS OF LAW

{¶8} 1) Defendant converted plaintiff's property and consequently liability for the value of the confiscated property shall attach.

{¶9} 2) Defendant is liable to plaintiff in the amount of \$157.74, 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.

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

{¶11} IT IS ORDERED THAT:

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

{¶13} 2) Defendant (Trumbull Correctional Institution) pay plaintiff (Rodney Nichols) \$182.74 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
9/9
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