

IN THE COURT OF CLAIMS OF OHIO

DAVID C. HEATH, #186-602	:	
P.O. Box 57	:	
940 Marion-Williamsport Road	:	Case No. 2002-03970-AD
Marion, Ohio 43301-0057	:	
	:	
Plaintiff	:	MEMORANDUM DECISION
	:	
v.	:	
	:	
MARION 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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{¶1} THE COURT FINDS THAT:

{¶2} 1) On April 16, 2002, plaintiff, David C. Heath, filed a complaint against defendant, Marion Correctional Institution, alleging his Sony Walkman and Sony adapter were lost while under defendant's control. Plaintiff seeks damages in the amount of \$51.47 for property loss, plus \$25.00 for filing fee reimbursement. Plaintiff submitted the filing fee with his complaint;

{¶3} 2) On August 23, 2002, defendant filed an investigation report admitting liability and acknowledging plaintiff suffered damages in the amount of \$51.47 for property loss;

{¶4} 3) Plaintiff filed a response.

{¶5} THE COURT CONCLUDES THAT:

{¶6} 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;

{¶7} 2) Plaintiff has suffered damages in the amount of \$51.47, 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.

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

{¶9} IT IS ORDERED THAT:

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

{¶11} 2) Defendant (Marion Correctional Institution) pay plaintiff (David C. Heath) \$76.47 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
9/23
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