

IN THE COURT OF CLAIMS OF OHIO

JOSHUA D. GILLESPIE, #A411-139 :
P.O. Box 1812
Marion, Ohio 43301 : Case No. 2002-06006-AD

Plaintiff : MEMORANDUM DECISION

v. :

OHIO DEPARTMENT OF :
REHABILITATION AND CORRECTIONS :

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 June 17, 2002, plaintiff, Joshua D. Gillespie, filed a complaint against defendant, Department of Rehabilitation and Correction, alleging several articles of his personal property were lost while in the custody of defendant's staff. Plaintiff valued his lost property at \$218.86. Plaintiff requested the court order in-kind restitution as opposed to awarding monetary damages.

{¶2} 2) On August 20, 2002, defendant filed an investigation report admitting liability for the loss of certain property. Defendant asserted plaintiff's property loss should be valued at \$173.08.

{¶3} 3) Plaintiff filed a response agreeing to accept damages of \$173.08. Again plaintiff requested an order for in-kind

restitution.

CONCLUSIONS OF LAW

{¶4} 1) This court is limited to awarding monetary damages at the administrative determination level.

{¶5} 2) I find, by a preponderance of 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.

{¶6} 3) Plaintiff has suffered damages in the amount of \$173.08.

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

{¶8} IT IS ORDERED THAT:

{¶9} 1) Plaintiff's request for in-kind restitution is DENIED;

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

{¶11} 3) Defendant (Department of Rehabilitation and Correction) pay plaintiff (Joshua D. Gillespie) \$173.08 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk