

IN THE COURT OF CLAIMS OF OHIO

JAMES DANIEL, #A168-065 :
P.O. Box 1812 :
Marion, Ohio 43302-1812 : Case No. 2002-06154-AD

Plaintiff : MEMORANDUM DECISION

v. :

DEPT. OF REHABILITATION AND :
CORRECTION :

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) Plaintiff, James Daniel, filed a complaint against defendant, Department of Rehabilitation and Correction. Plaintiff alleges on or about December 31, 2001, his watch was lost while in the custody of Marion Correctional Institution personnel. Plaintiff seeks damages in the amount of \$169.00 for the loss of his watch, \$25.00 for filing fee reimbursement, and \$2.00 for postage and copying costs.

{¶2} 2) Defendant admitted liability for the loss of plaintiff's watch, but disputed plaintiff's damage claim. Defendant maintained plaintiff's property loss damages should not exceed \$75.00.

{¶3} 3) Plaintiff responded stating his watch was worth

\$169.00.

CONCLUSIONS OF LAW

{¶4} 1) Plaintiff is not entitled to expenses, i.e. postage, copying, related to the prosecution of his case. *Hamman v. Witherstrine* (1969), 20 Ohio Misc. 77, 252 N.E. 2d 196.

{¶5} 2) Negligence has been shown in respect to the loss of plaintiff's property. *Baisden v. Southern Ohio Correctional Facility* (1977), 76-0617-AD.

{¶6} 3) Notwithstanding the fact defendant has instituted value restrictions for property possessed by inmates, an inmate plaintiff may recover the market value of property lost through the negligence of defendant if the value can be established within a reasonable degree of certainty. *Gaiter v. Lima Correctional Facility* (1988), 61 Ohio Misc. 2d 293.

{¶7} 4) A plaintiff is competent to testify in respect to the true value of his property. *Gaiter*, id.

{¶8} 5) As trier of fact, this court has the power to award reasonable damages based on evidence presented. *Sims v. Southern Ohio Correctional Facility* (1988), 61 Ohio Misc. 2d 239.

{¶9} 6) Plaintiff has suffered damages in the amount of \$100.00, 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 (Department of Rehabilitation and Correction) pay plaintiff (James Daniel) \$125.00 and such interest as is allowed by law;

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

DANIEL R. BORCHERT
Deputy Clerk

RDK/laa
9/26
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